# In The Matter Of:

*United States vs.*
*PFC Bradley E. Manning*

*Vol. 10*

*June 26, 2013*

*UNOFFICIAL DRAFT - 6/26/13 Morning Session*

*Provided by Freedom of the Press Foundation*

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1                         VOLUME X

2               IN THE UNITED STATES ARMY

3

4    UNITED STATES

5    VS.

6    MANNING, Bradley E., PFC                COURT-MARTIAL

7    U.S. Army, xxx-xx-9504

8    Headquarters and Headquarters Company,

9    U.S. Army Garrison,

10   Joint Base Myer-Henderson Hall,

11   Fort Myer, VA  22211

12   _____/

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15           The Hearing in the above-entitled matter was

16   held on Wednesday, June 26, 2013, commencing at 9:30 a.m.,

17   at Fort Meade, Maryland, before the Honorable Colonel

18   Denise Lind, Judge.

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1                    DISCLAIMER

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4   reporter who is not the official Government reporter,

5   was not permitted to be in the actual courtroom where

6   the proceedings took place, but in a media room

7   listening to and watching live audio/video feed, not

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10  control the proceedings in order to produce an

11  accurate verbatim transcript.

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14  transcript may contain court reporting outlines that

15  are not translated, notes made by the reporter for

16  editing purposes, misspelled terms and names, word

17  combinations that do not make sense, and missing

18  testimony or colloquy due to being inaudible to the

19  reporter.

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1　APPEARANCES:

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3　　　　ON BEHALF OF THE GOVERNMENT:

4　　　　　MAJOR ASHDEN FEIN

5　　　　　CAPTAIN JOSEPH MORROW

6　　　　　CAPTAIN ANGEL OVERGAARD

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8　　　　ON BEHALF OF THE ACCUSED:

9　　　　　DAVID COOMBS

10　　　　MAJOR THOMAS HURLEY

11　　　　CAPTAIN JOSHUA TOOMAN

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 1                          PROCEEDINGS,

 2                    (VIDEO AND AUDIO OFF.)

 3                    (VIDEO AND AUDIO ON.)

 4               THE COURT:  At that article or that RCM 802

 5   conference I asked the government if they intended to go

 6   forward with prosecution exhibits 31 alpha and 32 alpha

 7   that they had referenced when we were litigating.  Is

 8   that correct?

 9               MR. FEIN:  That's correct, Your Honor.

10               MR. COOMBS:  Yes, ma'am.

11               THE COURT:  And the parties also advised me

12   that they had reached stipulations of expected testimony

13   for two additional witnesses, but they don't want me to

14   go over the colloquy with PFC Manning until after the

15   next recess as well.

16               Does either side desire to add anything to

17   what occurred during the RCM 802 conference?

18               MR. COOMBS:  No, ma'am.

19               MR. FEIN:  No, Your Honor.

20               THE COURT:  Is there anything else we need to

21   address before the taking of evidence?
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1          MR. COOMBS:  No, Your Honor.

2          MR. FEIN:  No, Your Honor.  May the

3   government have a brief moment?

4          THE COURT:  Go ahead.

5          MR. FEIN:  Yes, Your Honor, the United States

6   is ready to proceed.  Although prior to this session the

7   United States intended to read a stipulation of expected

8   testimony for Miss Tasha Thian, we will forego that right

9   now in order to have the classified exhibits and call our

10  first witness.

11          MS. OVERGAARD:  United States calls Mr.

12  Charley Wisecarver.

13  Whereupon:

14              CHARLES WISECARVER,

15  called as a witness, having been first duly sworn

16  according to law, testified as follows:

17              DIRECT EXAMINATION

18  BY MS. OVERGAARD:

19          (VIDEO AND AUDIO OFF.)

20          (VIDEO AND AUDIO ON.)

21      A.    As a principal I started that position in

 1  February of 2008, and then prior to that I was just

 2  simply the deputy chief information officer and chief

 3  technology officer from June 2006.

 4      Q.      And was that, did you have similar

 5  responsibilities in that position?

 6      A.      I did, but I didn't have the oversight of the

 7  other two deputy CIOs at that point in time.  But

 8  Department of State is a very collaborative agency so we

 9  typically work together at the higher levels of the

10  bureau.

11      Q.      And then how about before that, what were you

12  doing?

13      A.      Prior to that I was the program manager for a

14  new messaging system, modernization of the messaging

15  system at the Department of State, it's called SMART,

16  State Messaging and Archive Retrieval Toolset, and that

17  was to replace the legacy messaging systems.  I did that

18  for two years.

19      Q.      And then before that?

20      A.      Prior to that I was the director of the

21  messaging systems office, so I started that job in

 1  December 2000 when I was promoted to the senior foreign

 2  service, and that was responsible for all email,

 3  firewall, messaging systems, mobile access systems.

 4      Q.      When did you start at the department?

 5      A.      I started at the department, I was officially

 6  brought in as a foreign service specialist in September

 7  1987.

 8      Q.      And what was your first assignment there?

 9      A.      My first assignment was actually in the

10  department working on another messaging system that

11  connected the secretary's office to the rest of the

12  department.  And then really my first true foreign

13  service assignment was in Mexico, I was the information

14  systems manager in Mexico City responsible for the nine

15  consulates that we had at that point in time, IT

16  operations.

17      Q.      And are you familiar with Net-Centric

18  Diplomacy?

19      A.      I am.

20      Q.      How are you familiar with Net-Centric

21  Diplomacy?

1    A.    Well, as the position that I had of the deputy

2  chief technology officer it fell under my purview,

3  responsibility and maintenance of that system.  I was an

4  occasional user.  Primarily when someone would complain

5  or make some comment about the system, I would go out and

6  use it.  I was not an avid user of the system,

7  Net-Centric, but I was aware and had exercised it

8  occasionally.

9    Q.    And you were responsible --

10    A.    I was responsible for the overall smooth

11  operation of the system, and if it wasn't running well I

12  heard it.

13    Q.    Can you tell us what is?

14    A.    It started off post 9/11, the original program

15  name was under Horizontal Fusion which was a DOD program.

16  DOD provided some money to our intelligence and program

17  research office at the Department of State to make

18  information available to the SIPRNET community.  So the

19  idea was that there's a wealth of information that needed

20  to be made available to those folks on the ground, to the

21  war fighters, and so that's what the program started out

1   as, information sharing across the community, both the

2   intel community and the Department of Defense community.

3         Q.      What was the name of that again?

4         A.      Horizontal Fusion was the original banner

5   that, moniker that it came under and that was in 2003.

6         Q.      So the idea you said was to make information

7   more readily available?

8         A.      Certainly.  If you look at the legacy process

9   of distributing things, Department of State would have a

10  telegram drafted by a political officer, say, for

11  example, in, pick a post, Djibouti or wherever, they

12  would draft that telegram, it would be sent to the

13  Department of State com center and then, depending on

14  distribution, they may say, okay, a copy of this should

15  also go to CENTCOM or other DOD elements or it might just

16  stay within Department of State.  But the idea was it

17  went to another com center, and the distribution there

18  was haphazard, in some cases you had the folks again on

19  the ground in the field, kind of at the tip of the sphere

20  if you will, so the idea was to make this more broadly

21  available, information more broadly available to those

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 1   folks.
 2        Q.      And when was NCD actually launched?
 3        A.      NCD would have been launched probably in the
 4   2004 timeframe, became operational in its infancy.
 5        Q.      And when did you actually start to oversee
 6   NCD?
 7        A.      It had been 2009 as the deputy chief when IRM
 8   took over responsibility for it.
 9        Q.      When did that occur?
10        A.      Late 2009.
11        Q.      And you were?
12        A.      Yeah, there was a negotiation process between
13   the bureau of resource management which had it
14   originally, they gained the money from DOD, they brought
15   it up through its inception, initial requirements, and
16   then we and my bureau looked at it and said why are these
17   folks running a messaging program, so we negotiated at
18   the assistant secretary level that this program should
19   come to the bureau of information resource management
20   under my purview.
21        Q.      So it went from RM to IRM?
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1      A.      That's correct.  Just added an extra letter.

2      Q.      And then how about in 2010, who was

3  responsible for the maintenance of NCD, is that still

4  you?

5      A.      That was under my responsibility until the

6  time I retired.

7      Q.      And did you oversee the budget?

8      A.      Yes, I did.

9      Q.      Who was actually responsible for the day to

10  day maintenance of the system, of NCD, in late 2009?

11      A.      Day to day would have fallen to contractors

12  with government oversight.

13      Q.      And how about 2010?

14      A.      Same, it would have been contractors with

15  government oversight.  In the bureau of information

16  resource management we're 60 percent contractors and 40

17  percent FTE.

18      Q.      And what contractors did you have working on

19  NCD in late 2009?

20      A.      It would have been CITI I believe was the

21  contractor that was working on that.

     1      Q.      What did they do?

     2      A.      They were primarily doing some program, we had

     3   some programmer type folks, system administrator,

     4   database administrator and some other low level.  There

     5   were some training folks involved.  I don't know if they

     6   were still involved in 2009, but we also had a kind of

     7   mini help desk at that point in time to answer user

     8   queries.

     9      Q.      And how much did those contractors get paid in

    10   late 2009?

    11      A.      I think the budget at that point in time --

    12              MR. COOMBS:  Your Honor, at this point he

    13   hasn't been qualified as an expert, but I would voir dire

    14   on that expertise once the government has completed its

    15   foundation.

    16              THE COURT:  All right.  Would you complete

    17   your foundation and I'll allow the defense to voir dire?

    18   BY MS. OVERGAARD:

    19      Q.      Did you oversee the budget in late 2009?

    20      A.      I was responsible for the complete IRM budget,

    21   certainly the operations side, so any of the programs

14

 1   that fell under that, yes.

 2        Q.      And you saw budget requests?

 3        A.      I saw budget requests and I saw the actual

 4   spend levels for all of the programs that were under my

 5   purview.

 6        Q.      And you actually had to monitor those spend

 7   levels in 2010?

 8        A.      Certainly as it got closer to the end of the

 9   fiscal year, we would watch, here is the budget allotment

10   for this particular project and here's the spend, and

11   what's the spend plan for how the money is to be used

12   prior to the end of the fiscal year.

13        Q.      And do you know in late 2009 that you had

14   programmers and low level technicians like you said or a

15   technician?

16        A.      Yes.  I mean you can't run a system without

17   having that level of assistance.  You couldn't put a

18   computer system out there, a large database out there

19   without having those types of personnel that the, the

20   mechanics, if you will, for systems to manage and

21   maintain the system.

1     Q.    And that was the same in 2010?

2     A.    Yes.

3     Q.    And would you have approved -- well, would

4 that have been a line in the spend levels that you

5 reviewed?

6     A.    Yes.  Under the methoding systems office there

7 would have been a line item for Net-Centric Diplomacy.

8     Q.    Which you approved?

9     A.    Yes.

10     Q.    And do you know how much, approximately how

11 much those technicians made?

12     A.    For --

13        THE COURT:  I'm going to allow --

14        MS. OVERGAARD:  Sorry.

15        THE COURT:  All right.  Go ahead, you can

16 answer that one.

17        THE WITNESS:  Repeat the question.

18        MS. OVERGAARD:  I'm sorry.

19 BY MS. OVERGAARD:

20     Q.    Do you know how much, the mini help desk that

21 you talked about, do you know approximately how much the

1    contractors were paid, without giving a number, just yes

2    or no.

3         A.    Yes.

4              MS. OVERGAARD:  We don't intend to qualify

5    him as an expert, ma'am, just a fact witness based on

6    what he saw in the budget requests.

7              THE COURT:  All right.  And, defense, do you

8    still want to voir dire if they're not going to qualify

9    him as an expert?

10             MR. COOMBS:  If they're not going to qualify

11   him as an expert, then more than likely I think it would

12   be a hearsay objection to the information.

13             MS. OVERGAARD:  He said he actually reviewed

14   the budget requests and the line items in the budget

15   request, ma'am.

16             MR. COOMBS:  I could voir dire on this to

17   show why it would be hearsay.

18             THE COURT:  You can have it on cross

19   examination.  I don't agree that it's hearsay.  It's not

20   a statement.

21             Are you going to show him some documents?

1          MS. OVERGAARD:  No, ma'am.

2          MR. COOMBS:  In this case, Your Honor, if the

3   defense can be heard.

4          THE COURT:  Go ahead.

5          MR. COOMBS:  The position that Mr. Wisecarver

6   occupied, whatever information he would be seeing would

7   be forms from individuals that were several echelons

8   below him, and they would indicate the amount of money

9   that they might need, sometimes overestimate that, and so

10  it would be statements from these individuals saying

11  here's how much money we need to do X, Y and Z.  And then

12  it would be brought up to his level.  He wasn't actively

13  looking at Net-Centric Diplomacy database saying this is

14  how much money we need, this is what we need to do.  So

15  in that regard it's a statement by those individuals

16  saying here's how much money we need for X, how much

17  money we need for Y.

18          THE COURT:  All right.  I'm going to overrule

19  the objection and you can cover that in cross

20  examination.

21          Proceed.

1  BY MS. OVERGAARD:

2      Q.      So then who was working at the mini help desk

3  that you were talking about in late 2009, early 2010?

4      A.      I do not know the individual's --

5      Q.      Not their names, but just their positions.

6      A.      It would have been a low level technical type

7  of position.

8      Q.      And how much would that person get paid?

9      A.      Typically that would be in the 65,000 to

10  70,000 range, somewhere in there.

11      Q.      And you said you were monitoring the spend

12  levels at the end of 2010.  Did you insure that all that

13  money was spent?

14      A.      Uh-huh.  That it had to be obligated, the

15  money had to be obligated by the end of the fiscal year.

16      Q.      When the money is obligated, then what

17  follows?

18      A.      Then the contractor can invoice against that

19  obligation document and it would be liquidated.  For all

20  intents and purposes from my standpoint the money was

21  spent.

1      Q.      Okay.   And was that over a thousand dollars

2   that was spent on your budget?

3      A.      For the Net-Centric Diplomacy program?

4      Q.      Yes.   In 2010.

5      A.      Yes.   It would have well exceeded that.

6      Q.      Can you tell us what networks Net-Centric

7   Diplomacy was located on?

8      A.      It was located on the SIPRNET network and on

9   JWICS, the top secret network, so the secret high and top

10  secret.

11     Q.      And what types of postings were posted on NCD?

12     A.      It would be information that the drafting

13  officers of those messages had deemed appropriate for

14  sharing outside Department of State channels.

15     Q.      So what are some examples of drafting

16  messages, is that what you said?

17     A.      The drafting officer would make that

18  determination for something like that.   So it might have

19  been a meeting with the foreign minister, for example, on

20  some type of negotiation, some type of treaty, various

21  things.   It could have been just biographical sketches,

1 here's the presidential race outside the United States,

2 so pick a country where there was actually some type of

3 election going on, here's the candidate and their stances

4 on various issues.

5      Q.     And did other government organizations and

6 agencies use NCD?

7      A.     Primarily it was those who had access to

8 SIPRNET.  Of the civilian agencies there were not that

9 many that had access to SIPRNET.  It's primarily the

10 Department of Defense and the intel community.

11      Q.     How was NCD actually populated in the end of

12 2009, the first part of 2010?

13      A.     The message would come from the drafting

14 officer, from the post overseas into the Department of

15 State com center, communications center there.  It would

16 review those messages for the appropriate caption and

17 then it would be fed over to the NCD database, all

18 electronic.

19      Q.     What was that, sir?

20      A.     All electronic.

21      Q.     And what was the appropriate caption?

1      A.      SIPDIS.  S I P, S I P standing for SIPRNET, D

2  I S standing for distribution.

3      Q.      And what is a caption?

4      A.      Caption is a means of determining who should

5  or perhaps should not get a particular message.  So

6  captions could be, we have certain captions for state

7  department distribution only.  We have captions that

8  might be medically privileged information, so that would

9  be actually restrictive, that other officers would not

10 have access to that information unless they were a

11 medical officer.  We have other exclusive channels that,

12 for the secretary's communications.

13     Q.      And you said SIPDIS was SIPRNET distribution?

14     A.      Yes, that's correct.

15     Q.      So what does that mean?

16     A.      So it means that the drafting officers and the

17 clearing and approving officers overseas have looked at

18 this and said this is of general interest outside the

19 Department of State information, it's appropriate for

20 posting on to the SIPRNET NCD database and JWICS.

21     Q.      And just so we can understand how SIPDIS would

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 1   actually work, could you walk us through how a cable is
 2   actually drafted on the screen and what fields they fill
 3   in?
 4        A.      Sure.  So first field that you have to fill
 5   out is the classification.  Is it unclassified,
 6   confidential, secret or top secret?  And top secret, of
 7   course, is only on certain types of messages.  Until you
 8   put in the approving officer, you put in the clearing
 9   officers, there will be a series of clearing officers as
10   well, folks who we view or made various changes to it and
11   said, yes, this is factual.  Then it would be the
12   drafting officer.  Underneath that you would have the
13   tags which is, are the terms and geographic subjects
14   information associated with it that was also used for
15   distribution purposes within the Department of State.
16   And it might, it might differentiate between a political
17   tag or an administrative tag, for example.
18             Then you would also have declassification
19   information that was appropriate.  There was the
20   executive order for classification line in there as well,
21   the subject, and then finally the text of the message,
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 1    and then ultimately it was signed by the ambassador at

 2    that mission overseas or by the Secretary of State in

 3    case of outbound message from Washington.

 4                So they would draft that message, they'd put

 5    all that information in there, it would go around for the

 6    clearance process.  This could take days, weeks or it

 7    might just be done very quickly depending on the nature

 8    of the message, how controversial it might be, so it goes

 9    through the clearance process.  And then finally all the

10    clears were on there and it goes to the approving officer

11    who would say, yay, nay, and then it would be transmitted

12    from the com center back to the Department of State.

13        Q.     So the cable is marked SIPDIS on the fields

14    and sent.  Where would it go?

15        A.     SIPDIS would go to Department of State, that

16    distribution would be made in the Department of State,

17    and additionally a feed would be given over to

18    Net-Centric Diplomacy.

19        Q.     So it would feed into Net-Centric Diplomacy?

20        A.     Uh-huh.

21        Q.     And when was that SIPDIS caption created?

1    A.    That was created at the outset of the program.

2  We had to differentiate.

3    Q.    Do you know why it was created?

4    A.    Again, it was to, it was so that the officers

5  had a clear understanding that this is a message that

6  should be shared outside of normal Department of State

7  areas.

8    Q.    Were there any other ways that cables were

9  uploaded into NCD?

10    A.    There was a capability that if you were a user

11  of Intelink and you had a passport, which basically was a

12  user ID and password, then you could upload messages as

13  well into NCD.

14    Q.    So there could be cables in NCD that aren't

15  SIPDIS?

16    A.    That's correct.

17    Q.    At the end of 2009 and the first part of 2010,

18  how would a user actually get to the NCD database if they

19  were on SIPRNET?

20    A.    They would go to the NCD website and that

21  would be it.

1      Q.      So how would they get there?

2      A.      A lot of folks had a bookmark, they knew what

3  the NCD address was.  I didn't particularly know what it

4  was, but I could do a search out there and find my way to

5  it.

6      Q.      So you could search on SIPRNET and find it?

7      A.      Yes, you could search on NCD, uh-huh.

8      Q.      Once someone got to NCD, if they wanted to

9  find a specific cable, for example, how could they have

10  done that?

11      A.      If they knew what the cable number was, they

12  could actually put that in in the search box, it's very

13  similar to how the Internet works today as in Google or

14  Bing or whatever your search engine is, or you could

15  search for a particular word, string, or whatever else,

16  you could search them that way.

17      Q.      So if someone did a general search, what would

18  it look like when the results came back?

19              MR. COOMBS:  Objection, Your Honor.  The

20  testimony now is going into the technical aspects of

21  Net-Centric Diplomacy database.  It's beyond the level of

1  701 and we're going to be going into 702 now, especially

2  if counsel is going to start asking questions about how

3  the Net-Centric Diplomacy database did or did not give

4  access to individuals.

5         THE COURT:  Are you going to qualify this

6  witness as an expert or not?

7         MS. OVERGAARD:  No, ma'am.  We're just

8  talking about his firsthand knowledge of what NCD looked

9  like, what you would do on NCD, how a search result would

10  come back, what you could do on NCD.

11         MR. COOMBS:  I believe, Your Honor, that the

12  witness testified that he rarely used NCD, occasionally

13  went on it.  If they want to limit it to the searches

14  that he did, his firsthand experience, fine.  But

15  counsel's not doing that, counsel is asking how

16  individuals would access NCD, how they'd do queries, how

17  they'd do searches.  That is the appropriate testimony of

18  an expert.

19         MS. OVERGAARD:  The witness stated, ma'am,

20  that he used NCD, he's aware of what it looked like, he

21  didn't use it constantly, but he used it, and every time

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 1   there was problems he logged on --
 2              THE COURT:  I think the defense objection is
 3   you're asking a general question of how everyone else
 4   used it.  If you don't want to qualify this witness as an
 5   expert, then tailor your questions to his own personal
 6   use.
 7              MS. OVERGAARD:  Yes, ma'am.
 8   BY MS. OVERGAARD:
 9      Q.     So when you did a search on NCD, what would
10   the results look like when you got them back?
11      A.     It would be the same as if I did a Google
12   search on the Internet.  It would come back with those
13   messages that met the criteria of my search.
14      Q.     So how would that appear, would it be just a
15   list of?
16      A.     It would have a list of messages, M R N, date,
17   subject line.
18              THE COURT:  What is an M R N?
19              THE WITNESS:  I'm sorry.  Message resource
20   number.  It's a unique identifier.  It's a combination of
21   the originating post and date time.  Date time is how
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 1   it's used in the military, D T G.
 2   BY MS. OVERGAARD:
 3       Q.       And if you wanted to open a cable, how would
 4   you do that?
 5       A.       You would just simply click on that link.
 6       Q.       Could you download a cable?
 7       A.       There was a feature to, I mean it's in the
 8   Internet Explorer bar is to file, save, yes.
 9       Q.       How would you do that?
10       A.       Go up to the file, go down to save from the
11   browser.
12       Q.       On the actual browser you would just go to the
13   save as on the drop down?
14       A.       Uh-huh.
15       Q.       Could you download multiple cables?
16               MR. COOMBS:  Objection, Your Honor.  Again,
17   now object to relevance and, again, what counsel is
18   really doing is trying to have this witness testify as to
19   how the process of Net-Centric Diplomacy database worked.
20               THE COURT:  And this witness uses the
21   Net-Centric Diplomacy database, correct?
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 1              MR. COOMBS:  If I could voir dire.

 2              THE COURT:  You can do it on cross

 3   examination.

 4              MR. COOMBS:  Then I would object then at this

 5   point to relevance on what the counsel is asking.

 6              THE COURT:  Overruled.

 7              Proceed.

 8   BY MS. OVERGAARD:

 9      Q.      Were you able to download multiple cables at

10   once from NCD in late 2009, early 2010?

11      A.      No.  I'd only do one at a time.  Same thing

12   for printing.

13      Q.      In your role as DCIO, did you also oversee the

14   auditing capabilities of Department of State programs,

15   for those under IRM?

16      A.      Yes, for any auditing that was being done,

17   yes, I would oversee that.

18      Q.      What did that include?

19      A.      I mean it's the whole authentication process

20   as you first try to authenticate to the network, you log

21   on to the network, you're either accepted or rejected at
```

1   that point in time.

2        Q.      Okay.  Did you ever see firewall logs?

3        A.      Firewalls, okay, different, yes, absolutely.

4   The firewall staff worked for me and so, yes, I saw

5   firewall logs.  In fact, in my job as the messaging

6   systems office director I spent quite a bit of time, we

7   had constant attempts to hack into our network at the

8   Department of State.

9        Q.      Were you ever asked to collect firewall audit

10  data for this case?

11       A.      Yes.

12       Q.      And what in general do those firewall logs

13  show?

14       A.      It was an IP address, we were looking for any

15  hits to the NCD IP address, and then where those were

16  actually going to, the destination IP address.

17       Q.      And do you remember when that was?

18       A.      I don't remember the specific IP address, no.

19       Q.      No.  Do you remember the time?

20       A.      Timeframe, that would have been October of

21  2010.  Diplomatic security actually requested that, law

```
 1    enforcement Army diplomatic security asked for that
 2    information.
 3         Q.      Do you remember who in particular?
 4         A.      Ron Rock was the gentleman.
 5         Q.      And who pulled those logs for you?
 6         A.      Jerry Mundy burnt CDs of those logs for me.
 7         Q.      And he gave those CDs to you?
 8         A.      He gave the CDs to me.
 9         Q.      And who did you give those CDs to?
10         A.      They went to my safe and then Ron Rock came
11    and picked them up.
12         Q.      So they were secured while they were in your
13    possession?
14         A.      They were in my safe.
15         Q.      And you did not alter them in any way?
16         A.      I did not alter them.
17              MS. OVERGAARD:  One moment, please.
18              (DISCUSSION OFF THE RECORD.)
19    BY MS. OVERGAARD:
20         Q.      Was NCD available on any network besides
21    SIPRNET and JWICS?
```

1      A.     No.  Not to my knowledge.

2      Q.     There wasn't a non-classified NCD?

3      A.     No.

4        MS. OVERGAARD:  Okay.  Thank you.

5        THE COURT:  Cross examination.

6        MR. COOMBS:  Yes, Your Honor.

7          CROSS EXAMINATION

8  BY MR. COOMBS:

9      Q.     Mr. Wisecarver, good morning.

10     A.     Good morning.

11     Q.     The NCD database was not developed at the

12 Department of State, was it?

13     A.     Yes, it was developed at the Department of

14 State.

15     Q.     Well, the information resource management did

16 not design or create the Net-Centric Diplomacy database,

17 that was contracted out?

18     A.     It was contracted out, but it's still

19 considered a government system.

20     Q.     Right.  So maybe it's just semantics.  The

21 database was designed and created by Creative Information

 1  Technology Incorporated, CITI?

 2       A.       They were the primary contractor.

 3       Q.       And they designed and created NCD, correct?

 4       A.       Based on specifications from Department of

 5  State, based on the task order, yes.

 6       Q.       And CITI is a private company?

 7       A.       To the best of my knowledge, yes.

 8       Q.       And they were hired to develop and deploy the

 9  NCD database for the Department of State?

10       A.       Uh-huh.

11       Q.       In the 2006 timeframe you served as the deputy

12  chief for IT operations and the chief technology officer

13  for Department of State, is that correct?

14       A.       Deputy chief information officer, I got that

15  position in June of 2006.

16       Q.       And during that time you were not working with

17  CITI on the design specifications for the Net-Centric

18  Diplomacy database?

19       A.       No, I was not.

20       Q.       Instead, your focus obviously was on the

21  overall requirements of your office?

1    A.    Uh-huh.

2    Q.    Since you were not focused on the design

3 specifications, you did not contribute to the design

4 scope of what the NCD database would be, is that correct?

5    A.    That's correct.

6    Q.    You did not contribute to CITI's logical

7 design for the Net-Centric Diplomacy database?

8    A.    I did not.

9    Q.    And the logical design of the database would

10 identify data elements and enable users to either find

11 data based upon some designated key, is that correct?

12    A.    That's your definition -- yeah, I mean it's

13 the user specifications types of things.  So they would

14 take those user requirements, the specifications provided

15 by the Department of State officers and program into

16 that, yes.

17    Q.    And you did not participate in CITI's

18 technical operation of the NCD database as well?

19    A.    I did not.

20    Q.    And the technical optimization is the physical

21 database itself, physical database design, is that

```
 1  correct?

 2       A.       Uh-huh.  I did not participate in that design.

 3       Q.       Right.  But I'm just asking the technical

 4  optimization, that is the physical database design, is

 5  that correct?

 6       A.       Again, that's a potential definition.

 7                THE COURT:  Do you know or not?

 8                THE WITNESS:  I'm not sure.  I mean, what's

 9  the -- repeat that again then, please.

10  BY MR. COOMBS:

11       Q.       Right.  So when someone's designing database,

12  the technical optimization of the database, that's the

13  physical database design?

14       A.       Technical optimization, that's not how I would

15  define.

16       Q.       How would you define?

17       A.       Optimization is improving performance and

18  throughput.  The design would have already been done,

19  technical design, but how could we improve it would be

20  optimization in my mind.

21       Q.       Would you agree with me that the technical
```

1  optimization would control what functions a user could

2  and could not perform on the database?

3      A.    No.  That's not technical optimization in my

4  mind at all.

5      Q.    What is it in your mind?

6      A.    Those types of things?  Those are user basic,

7  those are basic requirements.

8      Q.    All right.  So basic requirements of the

9  database would control what a user could and could not

10 do?

11     A.    That's correct.

12     Q.    And you did not participate in the design of

13 that?

14     A.    I didn't, that's correct.

15     Q.    Is that right?

16     A.    That's correct.

17     Q.    Now, with regards to the costs.

18          THE COURT:  Did you say it was a prosecution

19 exhibit?

20          MR. COOMBS:  I'm sorry.  D E.

21

 1  BY MR. COOMBS:

 2      Q.      Mr. Wisecarver, I'm showing you what's been

 3  marked as defendant's exhibit November for

 4  identification.  Can you tell me if you recognize this?

 5      A.      Uh-huh.  I do.

 6      Q.      And what is that?

 7      A.      It's a foreign affairs manual for the

 8  Department of State.

 9      Q.      And what is the foreign affairs manual?

10      A.      It consists of regulations of Department of

11  State.  It gives the organizational structure of the

12  Department of State, various policies and procedures.

13      Q.      And that particular section of the foreign

14  affairs manual, what does that cover?

15      A.      This is the bureau of that I was responsible

16  for, the bureau of information resource management.

17          MR. COOMBS:  Retrieving defendant's exhibit

18  November from the witness.

19          Permission to publish, ma'am?

20          THE COURT:  Go ahead.

21

1    BY MR. COOMBS:

2         Q.       Mr. Wisecarver, I'm going to show you two

3    pages from this.  It's basically on page 33.  All right.

4    So we will start with page 33 and then we're going to

5    carry over to 34, okay?  So 33 at the very bottom of

6    that, what is that, is that the position that you were in

7    at one point?

8         A.       Deputy chief information officer.  This is

9    select data, I believe, but okay.

10        Q.       And we're going to talk about some of the

11   information that you think might need to be corrected,

12   okay?

13        A.       Uh-huh.

14        Q.       And then going here carrying over to 34?

15               THE COURT:  Before we proceed, can I ask you

16   something?  You're answering the questions uh-huh.

17   That's very hard for court reporter.  If you can answer

18   them either yes or no.

19               THE WITNESS:  I'm sorry.  Be clear, yes,

20   ma'am.

21

```
 1   BY MR. COOMBS:

 2        Q.        So then when we carry over to page 34 and I

 3   know there's a lot there, but would you agree with me

 4   that page 34 kind of outlines the various requirements of

 5   your position?

 6        A.        That's the overall responsibilities of my

 7   positions, yes.

 8        Q.        And this is essentially just kind of a broad

 9   brush of everything that you would be responsible for?

10        A.        Yes, that's correct.

11        Q.        And obviously right here, even though and

12   we'll cover in a moment how it kind of fell under your

13   purview, this doesn't highlight the Net-Centric Diplomacy

14   or budgetary issues for that, is that correct?

15        A.        That's correct.  It doesn't call out any of

16   our systems.

17        Q.        What I'd like to now show you is page 78.

18              All right.  Now, this is a little hard to

19   see, but I'm going to zoom in.  First of all, have I

20   shown this to you before?

21        A.        Yes, you did.
```

1      Q.      And can you tell Colonel Lind what this is?

2      A.      This is the bureau's organizational chart.  It

3   shows the structure.  It's dated 2008, but it was not

4   current at that time.

5      Q.      All right.  And let's explain how it changed.

6   So as this is designed now, is this the current design?

7      A.      Yeah.  This is probably, I don't know all the

8   details of the various positions, but this is probably

9   closer to the organizational chart today, yes.

10     Q.      And then in the 2009, 2010 timeframe when you

11   were the deputy CIO, how was this different?

12     A.      What would have happened is off that chief

13   information officer box there it came down to the

14   principal deputy chief information officer which had been

15   me, and then the two DCIO boxes or the DCIO for business

16   planning and customer assurance or service.  And then the

17   office of information assurance, chief information

18   security officer, would have reported up to me, through

19   me to the chief information officer.

20     Q.      All right.  So when you were the principal

21   deputy then, all these boxes here below the CIO

1    essentially would have fallen underneath you?

2         A.    That's correct.

3         Q.    How many employees did you have essentially

4    working for you when you were the principal deputy?

5         A.    Employees or overall?  I mean look at the

6    contract staff and the employees, it was in excess of

7    1500.

8         Q.    Okay.  And so if we take out -- so 1500 people

9    working for you as the principal deputy?

10        A.    Right.  Right.

11        Q.    And I imagine then when these individuals are

12   working for you, you have the general oversight of them,

13   but you're not in the day to day weeds of their

14   particular jobs, is that correct?

15        A.    That would generally be correct.  It would

16   depend on the type of the program.  If it was a hot

17   button type program, I probably would be in the weed

18   system.  If it was a major failure, email wasn't working,

19   people couldn't access the Internet, yes, I would be

20   looking very closely and scutinizing what was going on.

21        Q.    Now, with regards to the Net-Centric

1   Diplomacy, the information that you have regarding any

2   sort of expenses for that is based upon what others have

3   briefed to you, is that correct?

4       A.      Or documents that were sent to me for

5   approval.

6       Q.      And those documents were documents that others

7   prepared for you?

8       A.      Yes.  They would be budget requests.

9       Q.      And my understanding is essentially those

10  budget requests that were coming up to you, unfortunately

11  this is kind of the way, and you tell me if you agree,

12  the way the government works, those budget requests would

13  be elevated somewhat, is that correct?

14      A.      It's not unusual for, again, you could do so

15  much.  So a program office wants to do the best they can

16  for their system, so they'll shoot for the sky.  They'll

17  put in there as much as they can.  They want to build

18  that perfect nirvana kind of system, yes.  Inflated,

19  well, that's kind of derogatory in a sense, that's a

20  little bit negative, but it's not unusual for some

21  padding to take place in the budget.

 1     Q.     And I guess the idea for padding is let's ask

 2  for more that we might actually need and then it might

 3  get cut back and we'll be in a position where we need to

 4  be.

 5     A.     That's true.  But the padding had to be

 6  justified as well in the narrative of the budget request.

 7     Q.     Now, with regard to the Net-Centric Diplomacy,

 8  you indicated that in late 2009 the IRM started to take

 9  control of that.

10     A.     Uh-huh.

11     Q.     That's when you were basically in the

12  conversation to take control of it.  The actual taking

13  control of the Net-Centric Diplomacy didn't take place

14  until August of 2010, is that correct?

15     A.     I don't know that fact.  I thought it was late

16  2009 that we took over responsibility for the program.

17     Q.     Okay.  So from your memory, you think it's

18  late 2009?

19     A.     Uh-huh.  That's correct.

20     Q.     Now, when you did take over the responsibility

21  for it, you weren't directly handling the budgetary

 1   issues for the Net-Centric Diplomacy, you were relying

 2   upon others to do that for you?

 3       A.     As with all programs at Department of State.

 4       Q.     So any information that you had regarding

 5   funding for the Net-Centric Diplomacy was based upon

 6   information from others?

 7       A.     The budget request would come to me for

 8   approval.

 9       Q.     Right.  So --

10       A.     I didn't prepare the budget request if that's

11   what you're asking.

12       Q.     Now, let's talk about the Net-Centric

13   Diplomacy.  That was built with information sharing as a

14   priority?

15       A.     Correct.

16       Q.     When the NCD database was deployed on SIPRNET

17   in late 2006, there were no individual user level

18   authentication or authorization mechanisms in place?

19       A.     Repeat that question.  I'm not sure.

20       Q.     Right.  When the Net-Centric Diplomacy was put

21   on SIPRNET, made available on SIPRNET, the Department of

```
 1   State did not have any individual user level

 2   authentication or authorization mechanisms in place, is

 3   that correct?

 4        A.     That's correct.  Yes, it wasn't required to

 5   view or print documents.

 6        Q.     Basically the state department relied upon the

 7   end users of the data, in this case the military, to

 8   guard against any abuse?

 9        A.     That's correct.

10        Q.     The state department's view on the Net-Centric

11   Diplomacy was that it was the responsibility of the

12   receiving agencies to insure that information was

13   handled, stored and processed in accordance with U.S.

14   government procedures?

15        A.     Yes.  And that was true with the legacy

16   messaging systems as well, it's just the same type of

17   practice was carried over.

18        Q.     And because it was the responsibility of the

19   receiving agency, the Net-Centric Diplomacy was not

20   designed with access controls as a priority?

21        A.      I can't say that that was a priority or not a
```

 1  priority, it just was not designed with that.

 2      Q.      Well, in fact, the way it was designed was the

 3  state department relied upon other agencies.  If you gave

 4  somebody access to SIPRNET, then you've done the vetting

 5  or whatnot to insure that they had proper access, is that

 6  correct?

 7      A.      Well, certainly for state department users.  I

 8  mean the secret clearance is required to have access to

 9  ClassNet in the Department of State world or SIPRNET, so,

10  yes, there was a certain amount of vetting taking place

11  and those types of things and we did not put additional

12  controls beyond that.

13      Q.      Right.  My question is limited just simply to

14  the other agencies.  So once the state department put

15  Net-Centric Diplomacy on the SIPRNET, they relied upon

16  other agencies to control who would or would not have

17  access to SIPRNET?

18      A.      That's correct.

19      Q.      And, likewise, they relied on other agencies

20  to put any access limitation or requirements to SIPRNET,

21  you relied upon other agencies to do that?

1      A.      Right.  But, again, understanding that NCD was

2  a web-based type of application, so I don't believe it

3  was limited at all.  If you had access to SIPRNET, you

4  had that secret clearance, you were given authorization

5  to use SIPRNET, then by default you would have access to

6  NCD.

7      Q.      And that's exactly what I was going to say.

8  So once the other government agency said you had access

9  to SIPRNET and approved of that, then there were no

10  individual access restrictions on Net-Centric Diplomacy?

11      A.      As far as viewing and printing messages, no.

12      Q.      Now, when you talked about your experience of

13  using the Net-Centric Diplomacy, you talked about, you

14  know, I went there, I clicked and I opened something and

15  I printed it.

16      A.      Uh-huh.  That's correct.

17      Q.      Did you actually ever do that?

18      A.      Yes, I actually did.

19      Q.      And --

20      A.      And the typical trick for something like that

21  is I go out and search for my own name, I do that, or

1    also for other events if there was a particular issue, so

2    what's being reported on Iraq right now, for example.

3         Q.    And so when you did that, could you open

4    multiple -- once you had Net-Centric Diplomacy opened,

5    could you open multiple Windows to have multiple cables

6    up at one time?

7         A.    Multiple Windows?  I mean it's the same way if

8    I open something I believe today it would go down to the

9    bottom ribbon bar in the Internet Explorer.

10        Q.    Sure.  What I'm saying essentially, and let's

11   keep it within the Net-Centric Diplomacy and keep it with

12   your experience.  If you opened up, you got a query and

13   you have ten cables come up and you open up number one,

14   could you then minimize that and move it to the side and

15   open up two as well to see one and two?

16        A.    Yes.

17        Q.    And if you had multiple tabs open, could you

18   then decide which, if any, to print?

19        A.    Yes.

20        Q.    Or did you have to close them all down to

21   print one?

```
 1      A.      No.  You would go to that window and print
 2  from there.
 3      Q.      Now, with regards to the Net-Centric Diplomacy
 4  database, because it was available to anyone on the
 5  SIPRNET, did the state department put out any sort of
 6  information to other agencies saying how you had to
 7  access it, any sort of restrictions on how you accessed--
 8      A.      Not aware of any.
 9      Q.      If another agency permitted a user to access
10  it in a particular manner or particular number of cables,
11  was that anything that the state department was
12  monitoring or overseeing?
13      A.      No.
14      Q.      My understanding, and you tell me if you know
15  this, each cable on the Net-Centric Diplomacy had kind of
16  a warning banner, are you aware of that?
17      A.      I'm not surprised by that.  I don't have
18  really, I don't recall exactly what that warning banner
19  would state, but that's pretty standard procedure.
20      Q.      All right.  Just so I know the testimony, I'm
21  not going to ask you to tell me that verbatim.  But are
```

1   you aware whether or not a cable had a warning banner on

2   it?

3         A.      I have been shown that they did have warning

4   banners on them, yes.

5         Q.      And within that banner, do you recall whether

6   or not any said there was a particular restriction on the

7   manner of downloading the cables?

8         A.      I'm not aware of that.

9         Q.      Was anything in the banner that ever said that

10  you were limited in some way to just click, opening and

11  saving?

12        A.      No.

13        Q.      All right.  Was there anything in the banner

14  that said that you, a user, was restricted from

15  automating the process of click, open and saving?

16        A.      No.  It says it's for authorized purposes is

17  to complete what the banner is saying on that case.

18        Q.      So that kind of goes back to the idea of if

19  you were authorized to go there and you were doing it for

20  some reason or whatnot, then you were authorized to go on

21  the Net-Centric Diplomacy?

1        A.      Uh-huh.  Yes.

2        Q.      And you tell me if you're not aware of this

3    and then I won't ask any other questions on this part,

4    but in September of 2012 the office of inspector general

5    released a report on the Net-Centric Diplomacy.  Are you

6    aware of that report?

7        A.      Only since you showed it to me.

8                MS. OVERGAARD:  Objection, ma'am.  Relevance.

9                THE COURT:  I will give a little latitude

10   here.  Go ahead.

11               THE WITNESS:  Only since you showed it to me

12   this morning.  No, I was not aware of that report.  That

13   was after I retired.

14   BY MR. COOMBS:

15       Q.      So are you aware of any sort of internal

16   review by the state department as to the design flaws of

17   the Net-Centric Diplomacy?

18       A.      I am not.

19       Q.      Are you aware of any sort of corrective steps

20   that the state department was or was not considering with

21   regards to the Net-Centric Diplomacy?

1    A.    No, I do not know any specifics of that.

2    Q.    With regards to the database, during your time

3  was the Net-Centric Diplomacy ever inaccessible to state

4  department employees?

5    A.    It possibly could have been for a network

6  issue.

7    Q.    Okay.  But as far as actually having the

8  database taken from you, was the database ever removed

9  from --

10    A.    Not to my knowledge.

11    Q.    Okay.  So, and I'm sorry, I just want to

12  complete the question.

13    A.    Okay.

14    Q.    But I know your answer.  And I'm fine with

15  your answer.  But was it ever removed from the Department

16  of State's servers or websites where you no longer had

17  the database on your servers?

18         MS. OVERGAARD:  Ma'am, I'd just ask for a

19  time restriction on this for relevance.

20         THE COURT:  Overruled.

21         THE WITNESS:  Again, please.

1 | BY MR. COOMBS:

2 |     Q.     Sure.  So from your time when you were there,

3 | are you aware of any time where the Net-Centric Diplomacy

4 | was removed from the servers to where it was no longer

5 | accessible?

6 |     A.     During my time there, no, that's correct.

7 |     Q.     And when did your time end?

8 |     A.     I retired in April of 2011, but I was on

9 | extended medical leave from October through February.

10 |     Q.     Of 2011?

11 |     A.     Uh-huh.  That's correct.  October 2010

12 | through.

13 |     Q.     So basically your knowledge would go up to,

14 | what date would you say?

15 |     A.     Really when I left in October for my medical

16 | leave.

17 |     Q.     Of 20?

18 |     A.     10.

19 |     Q.     So up until October of 2010, to your

20 | knowledge, the Net-Centric Diplomacy was never removed

21 | from the servers?

 1      A.      That's correct, it was never removed from the

 2  Department of State access.

 3      Q.      You talked a little bit about cables and I'd

 4  like to ask you some more information about SIPDIS

 5  cables, okay?

 6      A.      Uh-huh.  Yes.

 7      Q.      And if there's anything you don't know, just

 8  let me know and we'll go over that.  With regards to

 9  uploading cables, I think you said that SIPDIS cables

10  would go in once they were reviewed into the Net-Centric

11  Diplomacy database, is that right?

12      A.      Uh-huh.  That's correct.

13      Q.      And then certain users had the ability if they

14  had a particular account to actually upload cables into

15  SIPDIS as well?

16      A.      That's correct.

17      Q.      Could you tell us a little bit more about that

18  second part?  Like who would have that type of account?

19      A.      Anyone with Intellipedia type of users would

20  have had that type of account.

21      Q.      And when they uploaded something to the

1  Net-Centric Diplomacy database, was there any sort of

2  review to avoid spillage?

3          A.      I don't know.

4          Q.      When they uploaded that, was there any sort of

5  guidance put out that only those cables that would

6  qualify for SIPDIS should be uploaded to the Net-Centric

7  Diplomacy database?

8          A.      Overt guidance?  I don't know that that would

9  have been done necessarily as well.  The NCD had its

10  disclaimers associated with it, so I couldn't say.  I

11  never did an upload of a document, so I really couldn't

12  speak too much to this aspect.

13          Q.      Okay.  So my understanding then from your

14  testimony though when some posts would put a caption

15  SIPDIS, it would come into the state department and get a

16  review basically to make sure there's no spillage issues?

17          A.      There was a system review that would look for

18  that, yes.

19          Q.      And then also to remove any PII information,

20  personal identifying information?

21          A.      It was identified and put off to a review.

1       Q.      And then it would go into SIPRNET after that

2  review?

3       A.      That's correct.

4       Q.      So if that were the process, do you know if

5  I'm a person who's got Intellipedia and I'm uploading a

6  cable to the Net-Centric Diplomacy, is there anything on

7  this side that would do a review?

8       A.      I don't know.

9       Q.      Okay.  So that could happen and you just

10 wouldn't know?

11      A.      That's correct.

12      Q.      Now, with regards to SIPDIS, my understanding

13 of that term, and tell me if you agree, is SIPRNET

14 distribution would mean that this is the type of

15 information that's appropriate to share with anybody who

16 would have access to the SIPRNET?

17      A.      That's correct.

18      Q.      And the majority of these cables then, the

19 idea would be anyone -- well, actually before I ask that,

20 do you know how many people had access to SIPRNET?

21      A.      I don't know, no.

1      Q.      In your mind is that a very few people or

2  quite a bit?

3      A.      That's relative to what, you know, it's a lot

4  compared to Department of State users because we only had

5  approximately 20,000 users in the Department of State

6  with access to ClassNet and SIPRNET.  So it was some

7  number in excess of that.

8      Q.      All right.  So then when somebody from the

9  Department of State was putting a SIPDIS cable on the

10  Net-Centric Diplomacy, I imagine there was guidance put

11  out what that meant, that SIPDIS caption?

12      A.      Multiple times we sent telegrams to the field

13  to drafting officers specifying this is appropriate for

14  SIPDIS dissemination, this is not appropriate.

15      Q.      So knowing that it's going to go to an

16  audience that's in excess at least of what the state

17  department's audience would be of 20,000, you would agree

18  with me that the type of information that's put in there

19  shouldn't be our nation's most closely held secrets?

20      A.      I don't know if that's necessarily the case.

21      Q.      I mean it shouldn't be any top secret

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 1  information, is that correct?
 2       A.     No.  Because it's on the secret high network.
 3       Q.     Correct.  And are you aware of other more,
 4  state dis?
 5       A.     StateDis I believe is obsolete at this point.
 6  NoDis is no distribution, they didn't want electronic.
 7  ExDis was another one as well, executive distribution.
 8       Q.     Let's go through each one of these.  What does
 9  NoDis stand for?
10       A.     No distribution.
11       Q.     And my understanding is this captioning is for
12  the highest sensitivity of documents between --
13       A.     It might be saying something embarrassing
14  about the Department of State, something that should not
15  be shared.
16       Q.     And ExDis, what does that stand for?
17       A.     Executive distribution, so that would
18  typically be conversations between secretary of state and
19  his, her ambassadors.
20       Q.     And what about?
21       A.     StateDis would be state distribution only when
```

1    that was still in use.

2         Q.     And how about Roger, are you familiar with

3    that?

4         A.     Roger is general distribution.

5         Q.     And Terra, are you familiar --

6         A.     Terrace, it's terraced type of information

7    reporting, terraced reporting.

8         Q.     And you would agree with me each of those

9    captions makes it a much more restrictive audience that

10   can see the cable?

11        A.     Yes.  I mean that's the purpose of those

12   captions on there.

13        Q.     If you had a cable that had SIPDIS without any

14   other more restrictive caption, it would not be put on

15   the Net-Centric Diplomacy database?

16        A.     It should not be put on the Net-Centric

17   Diplomacy database, yes.  Certainly in the case of ExDis

18   and NoDis.  I'm not sure about Terra.  I'm not sure that

19   that wouldn't be put out into Net-Centric Diplomacy

20   database.  Roger channel would not be placed out there as

21   well.  Terra I'm not sure of.

1      Q.      Now, with regards to cables, and you can tell

2  me if you don't know this, I just want to get an idea of

3  how many cables we're talking about that might get to

4  SIPDIS.  Do you know how many cables roughly in a year

5  the state department would do?

6      A.      At the time when I was running the message and

7  systems office I tracked it very closely and at that time

8  when I left there in 2004, 2005 timeframe, we were doing

9  around 300,000 messages a year.

10      Q.      Okay.  So 300,000 a year of just cables, is

11  that correct?

12      A.      That's correct.

13      Q.      And would you agree with me that roughly about

14  75 percent of those were just administrative in nature?

15      A.      That's the number that we used, yes, 75

16  percent were administrative.

17      Q.      Do you have an idea of how many cables per

18  year once we have the SIPDIS caption roughly were being

19  created?

20      A.      No, I do not know that number.  I would have

21  had access to that number at one point, but I don't

```
 1  recall what that number was.
 2       Q.      But whatever number that would be, that would
 3  be the percentage I guess of the 300,000 cables?
 4       A.      Uh-huh.
 5              MR. COOMBS:  Mr. Wisecarver, thank you.  I
 6  don't have any further questions for you.
 7              THE COURT:  Redirect.
 8              MS. OVERGAARD:  Yes, ma'am.
 9                  REDIRECT EXAMINATION
10  BY MS. OVERGAARD:
11       Q.      Mr. Wisecarver, on cross you talked about
12  other than SIPDIS cable should not be on NCD beside
13  SIPDIS?
14       A.      That's correct.
15       Q.      But could they be?
16       A.      Through that uploading process or through some
17  type of human error, yes, they could be.
18       Q.      And how was NCD originally populated?
19       A.      It was actually through a scanning process.
20  We sent teams, at that time I was not responsible for the
21  system, but the way the resource management bureau's
```

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 1  program office did it at that time was they sent teams

 2  out to the posts overseas, they employed thousands of

 3  foreign service officers and other members of the post

 4  and they would go through the filing cabinets, they would

 5  go through the five drawer filing cabinets and primarily

 6  at that time they were focused on biographical data and

 7  making that available.

 8       Q.      So for the historic or for the older cables

 9  those would have been manually scanned in and uploaded?

10       A.      That's correct.

11       Q.      So those wouldn't be marked SIPDIS either?

12       A.      No, they would not have been.  That would have

13  been pre-SIPDIS creation of that caption.

14       Q.      And does that date back to when telegrams were

15  first started?

16       A.      Yeah.  Telegrams go back a long ways, so

17  potentially if someone had one of these old telegrams in

18  their filing cabinet, it could have been scanned.

19       Q.      And how far back, do you know how that goes?

20       A.      Telegrams go back to World War II timeframe.

21  I mean there's the old cable system that goes back, this
```

1  is based on Telex type of technology, so this goes back

2  to the turn of century.

3      Q.      Okay.  You also mentioned that there was, on

4  cross that there's a process to remove PII.

5      A.      Uh-huh.

6      Q.      What was that process?

7      A.      Going through and doing searches for strings

8  like a Social Security number is three digits, two digits

9  and then three digits.  So looking for certain types of

10  strings, characters, and then those would be identified

11  and then purged if they were deemed to be privacy related

12  information.  Same thing with credit card numbers as

13  well.

14      Q.      Was it automated or did a person go through

15  and look?

16      A.      No.  It had to be manually, it was a manual

17  search.

18      Q.      And do you know was PII always removed?

19      A.      Every attempt was made to remove it.

20      Q.      So every attempt was made.

21          You also mentioned on cross that Department

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 1   of State relied on other agencies to monitor their use of

 2   NCD.  What, why were there no technical restrictions put

 3   in place on NCD?

 4              MR. COOMBS:  I'm going to object again.  I

 5   think at this point the witness has already established

 6   that he had no design knowledge of NCD and that this

 7   would again require the witness to be an expert to talk

 8   about --

 9              THE COURT:  What was your question?

10              MS. OVERGAARD:  If he knows, based on what

11   was listed on cross about Department of State relied on

12   other agencies monitor, why there was no technical

13   restrictions?

14              THE COURT:  Do you know the answer to that?

15              THE WITNESS:  It would inhibit the sharing of

16   information, be administratively difficult to manage if

17   not impossible.

18              THE COURT:  I'm going to overrule that.

19   BY MS. OVERGAARD:

20       Q.     Did you know in your use of NCD, was there a

21   mechanism that digitally allowed user to download or
```

1  print multiple cables at a time?

2       A.     I'm not aware of any such capability or

3  function.

4              MS. OVERGAARD:  One moment, please.

5  BY MS. OVERGAARD:

6       Q.     Did PII include names?

7       A.     No.  Well, it would include, names would be a

8  part of it.  Name, associated with a Social Security

9  number and date of birth.

10      Q.     And was that process a hundred percent?

11      A.     It's highly doubtful.

12             MS. OVERGAARD:  All right.  Thank you, sir.

13             THE COURT:  All right.

14             MR. COOMBS:  Nothing, Your Honor.

15             THE COURT:  I have a couple questions for

16 you.

17             Based on that last question, in these cables

18 that were reviewed to go on NCD, were the names purged or

19 not?

20      A.     No, ma'am, names were not purged.

21             THE COURT:  You testified earlier that there

1  were cables that went out to the bureaus in the field on

2  what should or shouldn't be, I guess with criteria on

3  what should or shouldn't be on NCD.  What were the

4  criteria that were put out?

5              THE WITNESS:  Information that should be

6  broadly shared, information for the war fighter,

7  information of interest.  As long as it didn't violate

8  privacy guidelines.

9              THE COURT:  Any follow-up based on that?

10             MS. OVERGAARD:  No, ma'am.

11             MR. COOMBS:  No, Your Honor.

12             THE COURT:  Temporary over permanent excusal?

13             MS. OVERGAARD:  Temporary, ma'am.

14             THE COURT:  All right.  You're temporarily

15  excused.  While the trial is going on, please don't

16  discuss your testimony with anyone other than the lawyers

17  or the accused while the trial is going on.

18             MR. FEIN:  Ma'am, the United States offers to

19  read Miss Thian's stipulation into evidence.

20             THE COURT:  Read.

21             MR. FEIN:  Ma'am, this is prosecution exhibit

1    150.   Stipulation of expected testimony for Miss Tasha

2    Thian, 16 June 2013.

3                    (STIPULATION OF EXPECTED TESTIMONY OF TASHA

4    THIAN PUBLISHED IN OPEN COURT.)

5                    MR. FEIN:  Ma'am, the government would move

6    prosecution exhibits 98 and 151 for identification into

7    evidence.

8                    MR. COOMBS:  No objection, ma'am.

9                    THE COURT:  All right.  May I see them?

10                    Prosecution exhibit 151 for identification is

11   admitted.

12                    Prosecution exhibit 98 for identification is

13   admitted.

14                    Proceed.

15                    MR. FEIN:  Ma'am, at this point the United

16   States requests a 20 minute recess for a comfort break

17   and to finalize any stipulations for the day.

18                    THE COURT:  All right.  And you also have my

19   answer to the question that I asked earlier.

20                    MR. FEIN:  Yes, ma'am, I will.

21                    THE COURT:  Anything else we need to cover

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 1   before we recess?

 2               MR. COOMBS:  No, ma'am.

 3               THE COURT:  Court's in recess until ten after

 4   eleven.

 5               (BRIEF RECESS.)

 6               THE COURT:  Court is called to order.  Let

 7   the record reflect that all parties, all parties present

 8   when the court last recessed are again present in court.

 9               All right.  Does the government have an

10   answer to my question?

11               MR. MORROW:  Yes, Your Honor.  The two tweets

12   have been marked as prosecution exhibits 31 alpha and 32

13   alpha for identification and we'd offer those into

14   evidence, subject to your ruling on the evidence.

15               THE COURT:  All right.  Any objection from

16   the defense?

17               MR. TOOMAN:  The same objection that we've

18   discussed at length, Your Honor.

19               THE COURT:  All right.  Captain Morrow, has

20   Special Agent Mander testified that the prosecution

21   exhibits 31 alpha and 32 alpha are the screen images of
```

1    the images that he pulled from the Twitter account?

2                    MR. MORROW:  We believe he has, Your Honor.

3    We believe he testified --

4                    THE COURT:  He testified that he saw them.

5                    MR. MORROW:  That he saw them about a year

6    ago, that he had printed them, but I'd have to go back

7    and look at the transcript.

8                    THE COURT:  Did he ever connect prosecution

9    exhibit 31 for identification, alpha, and 32 alpha?

10                    MR. MORROW:  We can recall him for that

11   purpose.

12                    THE COURT:  All right.  When did you plan to

13   do that?

14                    MR. MORROW:  Tomorrow, Your Honor.  Tomorrow

15   morning.

16                    THE COURT:  All right.

17                    MR. FEIN:  Ma'am, also for the record reflect

18   the accused and Major Hurley are currently located in the

19   panel box to review classified material.

20                    THE COURT:  Okay.  All right.  We have two

21   stipulations of expected testimony at issue?

 1              MR. FEIN:  Yes, ma'am.  What's been marked as

 2   prosecution exhibit 162 alpha and bravo for

 3   identification, and prosecution exhibits 163 alpha and

 4   bravo for identification.  Alpha are the redacted and

 5   bravo are the original classified versions.

 6              THE COURT:  All right.  May I see them,

 7   please?

 8              All right.  PFC Manning, we've gone through

 9   this inquiry a few times with respect to other

10   stipulations of expected testimony.  I have before me

11   prosecution exhibit 162 alpha which is the stipulation of

12   expected testimony for Mr. Albert Janek, and 162,

13   prosecution exhibit 162 bravo for identification which is

14   the classified version of that exhibit.  And I also have

15   prosecution exhibit 163A for identification, the

16   stipulation of expected testimony of Mr. Gerald Mundy,

17   and prosecution exhibit 163B which is the classified

18   version of that stipulation of expected testimony.

19              Do you have a copy of both the classified and

20   redacted versions of prosecution exhibits 162 and 163?

21              THE ACCUSED:  Yes, Your Honor.

 1                    THE COURT:  Did you sign those stipulations

 2    of expected testimony?

 3                    THE ACCUSED:  Yes, Your Honor, I did.

 4                    THE COURT:  Before signing them, did you read

 5    them thoroughly?

 6                    THE ACCUSED:  Yes, ma'am.

 7                    THE COURT:  Do you understand the contents of

 8    the stipulations?

 9                    THE ACCUSED:  Yes, ma'am.

10                    THE COURT:  Did your defense counsel explain

11    the stipulations to you?

12                    THE ACCUSED:  Yes, ma'am.

13                    THE COURT:  Do you understand you have an

14    absolute right to refuse to stipulate to the contents of

15    either of these documents?

16                    THE ACCUSED:  Yes, ma'am.

17                    THE COURT:  Now, you should enter into a

18    stipulation only if you believe it's in your best

19    interest to do that, do you understand that?

20                    THE ACCUSED:  Yes, ma'am.

21                    THE COURT:  Now, once again, this is a

1    stipulation of expected testimony, and what that is is

2    when counsel for both sides and you agree to a

3    stipulation of expected testimony, you are agreeing that

4    for prosecution exhibit 162 alpha and bravo, if Mr.

5    Albert Janek were here testifying in court, and for

6    prosecution exhibit 163 alpha and bravo, if Mr. Gerald

7    Mundy were here testifying in court, you're agreeing that

8    this stipulation of expected testimony is what each of

9    these witnesses would say.

10                  THE ACCUSED:  Yes, Your Honor.

11                  THE COURT:  The stipulation does not admit to

12   the truth of the person's testimony, the stipulation can

13   be contradicted, attacked or explained in the same way as

14   if the person who was testifying here in court on the

15   witness stand.

16                  Now, do you understand all that?

17                  THE ACCUSED:  Yes, Your Honor.

18                  THE COURT:  Now, knowing what I've told you

19   and what your defense counsel has told you about these

20   stipulations, do you still desire to enter into them?

21                  THE ACCUSED:  Yes, ma'am.

```
 1              THE COURT:  Do counsel concur?

 2              MR. HURLEY:  Yes, ma'am.

 3              MR. FEIN:  Yes, ma'am.

 4              THE COURT:  All right.  Prosecution exhibits

 5  162 alpha and 162 bravo, and 163 alpha and 163 bravo are

 6  admitted.

 7              All right.  Do we have someone available to

 8  retrieve the classified portions?

 9              MR. FEIN:  Ma'am, at this point they can be

10  left there if the accused and Major Hurley can go back to

11  their desk and they'll be monitored until we recess.

12              THE COURT:  All right.  PFC Manning and Major

13  Hurley, why don't you return to the defense table?

14              Is the government ready to proceed?

15              MR. FEIN:  Yes, ma'am.  There's also one

16  other correction that's been made by the parties, Your

17  Honor, on a stipulation of expected testimony,

18  prosecution exhibit 149.  Stipulation of expected

19  testimony of Mr. James Downey dated 1 June 2013.

20              THE COURT:  May I see it, please?

21              MR. FEIN:  Yes, Your Honor.
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 1              THE COURT:  All right.  Please describe the

 2   change.

 3              MR. FEIN:  Yes, ma'am.  On page three, Your

 4   Honor, the top right where the prosecution exhibit PE

 5   number was originally inked in, it was 152.  It has been

 6   changed to PE 164 for identification.

 7              THE COURT:  All right.  And I see three sets

 8   of initials next to it.  Are those the initials of

 9   counsel and PFC Manning?

10              MR. HURLEY:  Yes, ma'am.

11              THE COURT:  So you concur with the change?

12              MR. HURLEY:  Yes, ma'am.

13              THE COURT:  And you do as well?

14              THE ACCUSED:  Yes, ma'am.

15              THE COURT:  All right.  Is there anything

16   else we need to address before we proceed?

17              MR. FEIN:  No, ma'am.

18              THE COURT:  Has that stipulation of expected

19   testimony been read in the record already?

20              MR. FEIN:  It has not.

21              Your Honor, the United States offers to read

1   into the record the stipulation of expected testimony of

2   Mr. Albert Janek, prosecution exhibit 162 alpha.

3                   (STIPULATION OF ALBERT JANEK PUBLISHED IN

4   OPEN COURT.)

5                   MR. FEIN:  We would move prosecution exhibit

6   97 for identification into evidence as prosecution

7   exhibit 97.

8                   MR. HURLEY:  Ma'am, we have no objection to

9   that, but just to make clear, there's a line on page five

10  with respect to the stipulation of expected testimony, we

11  understood Major Fein to say -- the sentence is about

12  midway through the paragraph, it begins I oversaw.  One

13  of the dates listed, we understood Major Fein to say 30

14  January 2010 and obviously on the document itself is 30

15  April 2010.  And it may have been a misperception on our

16  part, but just to make clear.

17                  THE COURT:  All right.  Thank you.  Any

18  objection to prosecution exhibit 97 for identification?

19                  MR. HURLEY:  No, ma'am.

20                  THE COURT:  May I see it, please?

21                  Prosecution exhibit 97 for identification is

1    admitted.

2              MR. FEIN:  Ma'am, the United States offers to

3    read on to the record of stipulation of expected

4    testimony for Mr. Gerald Mundy dated 26 June 2013 and has

5    been marked as prosecution exhibit 163 alpha for

6    identification.

7              THE COURT:  Proceed.

8              (STIPULATION OF GERALD MUNDY PUBLISHED IN

9    OPEN COURT.)

10             MR. FEIN:  Government would move prosecution

11   exhibit 68 for identification into evidence as

12   prosecution exhibit 68.

13             MR. HURLEY:  No objection, ma'am.

14             THE COURT:  Prosecution exhibit 68 for

15   identification is -- did I already admit that?

16             MR. FEIN:  One moment, Your Honor.

17             THE COURT:  My initials are on it, that's why

18   I'm asking.

19             MR. FEIN:  Ma'am, we'll verify what witness

20   and when.

21             Yes, ma'am.  When the United States read on

1   to the record Special Agent Wilbur, prosecution exhibit

2   72 stipulation, the United States moved to admit

3   Department of State firewall logs, prosecution exhibit

4   68.

5             And to repeat what I said because I was not

6   near a microphone, when the United States moved after

7   reading the stipulation of expected testimony for Special

8   Agent Wilbur, prosecution exhibit 72, the United States

9   moved to admit Department of State firewall logs,

10  prosecution exhibit 68, and they were admitted.

11            Ma'am, the United States I think probably now

12  is a good time to take a lunch recess.

13            THE COURT:  All right.  How long would you

14  like?

15            MR. FEIN:  Hour and fifteen minutes, ma'am.

16  Until 1315.

17            THE COURT:  All right.  Court is in recess

18  until 1315.

19                  (LUNCH RECESS.)

20

21

United States vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

# A

**ability (1)**
54:13
**able (1)**
29:9
**absolute (1)**
71:14
**absolutely (1)**
30:3
**abuse (1)**
45:8
**accepted (1)**
29:21
**access (24)**
8:3;20:7,9;21:10;26:4,16;
41:19;45:20;46:4,5,8,17,20;
47:3,5,8,10;49:7,9;54:2;
56:16,20;57:6;60:21
**accessed- (1)**
49:7
**accessible (1)**
53:5
**accordance (1)**
45:13
**according (1)**
6:16
**account (4)**
54:14,18,20;69:1
**accused (14)**
66:17;69:18;70:21;71:3,
6,9,12,16,20;72:10,17,21;
73:10;74:14
**across (1)**
10:1
**actively (1)**
17:12
**actual (3)**
14:3;28:12;43:12
**actually (22)**
8:9;11:2,5;12:9;14:6;
16:13;20:2,11;21:9;22:1,2;
24:18;25:12;30:16,21;43:2;
47:17,18;52:7;54:14;56:19;
61:19
**add (1)**
5:16
**added (1)**
12:1
**additional (2)**
5:13;46:11
**additionally (1)**
23:17
**address (7)**
5:21;25:3;30:14,15,16,
18;74:16
**administrative (3)**
22:17;60:14,16
**administratively (1)**
64:16
**administrator (2)**
13:3,4

**admit (4)**
72:11;76:15;77:2,9
**admitted (5)**
67:11,13;73:6;76:1;77:10
**advised (1)**
5:11
**affairs (3)**
37:7,9,14
**again (14)**
10:3,18;24:4;28:16,17;
35:6,9;42:14;47:1;52:21;
64:4,7;68:8;71:21
**against (2)**
18:18;45:8
**agencies (11)**
20:6,8;45:12;46:3,14,16,
19,21;49:6;64:1,12
**agency (4)**
7:8;45:19;47:8;49:9
**Agent (3)**
68:20;77:1,8
**ago (1)**
69:6
**agree (9)**
16:19;35:21;39:3;42:11;
56:13;57:17;59:8;60:13;
72:2
**agreeing (2)**
72:3,7
**ahead (5)**
6:4;15:15;17:4;37:20;
51:10
**Albert (4)**
70:12;72:5;75:2,3
**allotment (1)**
14:9
**allow (2)**
13:17;15:13
**allowed (1)**
64:21
**alpha (18)**
5:6,6;68:12,13,21,21;
69:9,9;70:2,3,4,11;72:4,6;
73:5,5;75:2;76:5
**alter (2)**
31:15,16
**Although (1)**
6:6
**always (1)**
63:18
**ambassador (1)**
23:1
**ambassadors (1)**
58:19
**amount (2)**
17:8;46:10
**appear (1)**
27:14
**application (1)**
47:2
**appropriate (9)**
19:13;20:16,21;21:19;
22:19;26:17;56:15;57:13,

**14**
**approval (2)**
42:5;44:8
**approved (3)**
15:3,8;47:9
**approving (3)**
21:17;22:8;23:10
**approximately (3)**
15:10,21;57:5
**April (2)**
53:8;75:15
**Archive (1)**
7:16
**areas (1)**
24:7
**Army (1)**
31:1
**around (2)**
23:5;60:9
**article (1)**
5:4
**aspect (1)**
55:12
**aspects (1)**
25:20
**assignment (3)**
8:8,9,13
**assistance (1)**
14:17
**assistant (1)**
11:18
**associated (3)**
22:14;55:10;65:8
**assurance (2)**
40:16,17
**attacked (1)**
72:13
**attempt (2)**
63:19,20
**attempts (1)**
30:7
**audience (3)**
57:16,17;59:9
**AUDIO (4)**
5:2,3;6:19,20
**audit (1)**
30:9
**auditing (2)**
29:14,16
**August (1)**
43:14
**authenticate (1)**
29:20
**authentication (3)**
29:19;44:18;45:2
**authorization (3)**
44:18;45:2;47:4
**authorized (3)**
50:16,19,20
**automated (1)**
63:14
**automating (1)**
50:15

**available (10)**
9:18,20;10:7,21,21;
31:20;44:21;49:4;62:7;73:7
**avid (1)**
9:6
**avoid (1)**
55:2
**aware (14)**
9:7;26:20;49:8,16;50:1,8;
51:2,6,12,15,19;53:3;58:3;
65:2

# B

**back (15)**
23:12;25:18;26:10;27:10,
12;43:3;50:18;62:14,16,19,
20,21;63:1;69:6;73:10
**banner (8)**
10:4;49:16,18;50:1,5,9,
13,17
**banners (1)**
50:4
**bar (2)**
28:8;48:9
**based (10)**
16:5;33:4,5;34:11;42:2;
44:5;63:1;64:10;65:17;66:9
**basic (3)**
36:6,7,8
**basically (6)**
24:11;38:3;43:11;45:6;
53:13;55:16
**became (1)**
11:4
**begins (1)**
75:12
**below (2)**
17:8;40:21
**beside (1)**
61:12
**besides (1)**
31:20
**best (3)**
33:7;42:15;71:18
**beyond (2)**
25:21;46:12
**Bing (1)**
25:14
**biographical (2)**
19:21;62:6
**birth (1)**
65:9
**bit (5)**
30:6;42:20;54:3,17;57:2
**bookmark (1)**
25:2
**both (3)**
10:1;70:19;72:2
**bottom (2)**
38:5;48:9
**box (3)**
25:12;40:13;69:19

United States vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

**boxes (2)**
40:15,21
**bravo (8)**
70:2,4,5,13;72:4,6;73:5,5
**break (1)**
67:16
**brief (2)**
6:3;68:5
**briefed (1)**
42:3
**broad (1)**
39:8
**broadly (3)**
10:20,21;66:6
**brought (3)**
8:6;11:14;17:12
**browser (2)**
28:11,12
**brush (1)**
39:9
**budget (18)**
12:7;13:11,19,20;14:2,3,
9;16:6,14,14;19:2;42:8,10,
12,21;43:6;44:7,10
**budgetary (2)**
39:14;43:21
**build (1)**
42:17
**built (1)**
44:13
**bureau (7)**
7:10;11:13,16,19;12:15;
37:15,16
**bureaus (1)**
66:1
**bureau's (2)**
40:2;61:21
**burnt (1)**
31:6
**business (1)**
40:15
**button (1)**
41:17

## C

**cabinet (1)**
62:18
**cabinets (2)**
62:4,5
**cable (14)**
22:1;23:13;25:9,11;28:3,
6;49:15;50:1;56:6;57:9;
59:10,13;61:12;62:21
**cables (25)**
24:8,14;28:15;29:9;48:5,
13;49:10;50:7;54:3,5,9,9,
14;55:5;56:18;60:1,3,4,10,
17;61:3;62:8;65:1,17;66:1
**call (2)**
6:9;39:15
**called (3)**
6:15;7:15;68:6

**calls (1)**
6:11
**came (4)**
10:5;25:18;31:10;40:13
**Can (21)**
9:13;15:15;16:18;17:3,
19;18:18;19:6;21:21;29:2;
37:4;38:15,17;40:1;42:15,
17;59:10;60:1;69:10;72:12;
73:9,10
**candidate (1)**
20:3
**capabilities (1)**
29:14
**capability (2)**
24:10;65:2
**Captain (1)**
68:19
**caption (10)**
20:16,21;21:3,4;23:21;
55:14;57:11;59:14;60:18;
62:13
**captioning (1)**
58:11
**captions (5)**
21:6,6,7;59:9,12
**card (1)**
63:12
**carried (1)**
45:17
**carry (2)**
38:5;39:2
**carrying (1)**
38:14
**case (7)**
17:2;23:3;30:10;45:7;
50:17;57:20;59:17
**cases (1)**
10:18
**CDs (4)**
31:6,7,8,9
**CENTCOM (1)**
10:15
**center (5)**
10:13,17;20:15,15;23:12
**century (1)**
63:2
**certain (5)**
21:6;22:7;46:10;54:13;
63:9
**Certainly (5)**
10:8;13:21;14:8;46:7;
59:17
**change (2)**
74:2,11
**changed (2)**
40:5;74:6
**changes (1)**
22:10
**channel (1)**
59:20
**channels (2)**
19:14;21:11

**characters (1)**
63:10
**CHARLES (1)**
6:14
**Charley (1)**
6:12
**chart (2)**
40:2,9
**chief (12)**
7:2,2;9:2;11:7;33:12,12,
14;38:8;40:12,14,17,19
**CIO (2)**
40:11,21
**CIOs (1)**
7:7
**CITI (4)**
12:20;33:1,6,17
**CITI's (2)**
34:6,17
**City (1)**
8:14
**civilian (1)**
20:8
**classification (2)**
22:5,20
**classified (7)**
6:9;69:19;70:5,14,17,19;
73:8
**ClassNet (2)**
46:9;57:6
**clear (4)**
24:5;38:19;75:9,16
**clearance (4)**
23:6,9;46:8;47:4
**clearing (3)**
21:17;22:8,9
**clears (1)**
23:10
**click (3)**
28:5;50:10,15
**clicked (1)**
47:14
**close (1)**
48:20
**closely (3)**
41:20;57:19;60:7
**closer (2)**
14:8;40:9
**collaborative (1)**
7:8
**collect (1)**
30:9
**colloquy (1)**
5:14
**Colonel (1)**
40:1
**com (4)**
10:13,17;20:15;23:12
**combination (1)**
27:20
**comfort (1)**
67:16
**coming (1)**

**42:10**
**comment (1)**
9:5
**communications (2)**
20:15;21:12
**community (5)**
9:18;10:1,2,2;20:10
**company (1)**
33:6
**compared (1)**
57:4
**complain (1)**
9:4
**complete (4)**
13:16,20;50:17;52:12
**completed (1)**
13:14
**computer (1)**
14:18
**concur (2)**
73:1;74:11
**conference (2)**
5:5,17
**confidential (1)**
22:6
**connect (1)**
69:8
**connected (1)**
8:11
**considered (1)**
32:19
**considering (1)**
51:20
**consists (1)**
37:10
**constant (1)**
30:7
**constantly (1)**
26:21
**consulates (1)**
8:15
**contents (2)**
71:7,14
**contract (1)**
41:6
**contracted (2)**
32:17,18
**contractor (3)**
12:21;18:18;33:2
**contractors (6)**
12:11,14,16,18;13:9;16:1
**contradicted (1)**
72:13
**contribute (2)**
34:3,6
**control (6)**
36:1,9;43:9,12,13;46:16
**controls (2)**
45:20;46:12
**controversial (1)**
23:8
**conversation (1)**
43:12

United States vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

**conversations (1)**
58:18
**COOMBS (29)**
5:10,18;6:1;13:12;16:10,
16;17:2,5;25:19;26:11;
28:16;29:1,4;32:6,8;35:10;
36:20;37:1,17;38:1;39:1;
51:14;53:1;61:5;64:4;
65:14;66:11;67:8;68:2
**copy (2)**
10:14;70:19
**corrected (1)**
38:11
**correction (1)**
73:16
**corrective (1)**
51:19
**costs (1)**
36:17
**counsel (9)**
26:2,15;28:17;29:5;
71:10;72:2,19;73:1;74:9
**counsel's (1)**
26:15
**country (1)**
20:2
**couple (1)**
65:15
**course (1)**
22:7
**COURT (85)**
5:4,11,20;6:4;13:16;
15:13,15;16:7,18;17:4,18;
26:5;27:2,18;28:20;29:2,6;
32:5;35:7;36:18;37:20;
38:15,17;51:9;52:20;61:7;
64:9,14,18;65:13,15,21;
66:9,12,14,20;67:4,9,18,21;
68:3,6,6,8,8,15,19;69:4,8,
12,16,20;70:6;71:1,4,7,10,
13,17,21;72:5,7,11,14,18;
73:1,4,12,20;74:1,7,11,13,
15,18;75:4,17,20;76:7,9,14,
17;77:13,17,17
**Court's (1)**
68:3
**cover (4)**
17:19;37:14;39:12;67:21
**create (1)**
32:16
**created (6)**
23:21;24:1,3;32:21;33:3;
60:19
**creation (1)**
62:13
**Creative (1)**
32:21
**credit (1)**
63:12
**criteria (3)**
27:13;66:2,4
**cross (9)**
16:18;17:19;29:2;32:5,7;

61:11;63:4,21;64:11
**current (2)**
40:4,6
**currently (1)**
69:18
**customer (1)**
40:16
**cut (1)**
43:3

---

**D**

**data (6)**
30:10;34:10,11;38:9;
45:7;62:6
**database (39)**
13:4;14:18;17:13;20:17;
21:20;24:18;25:21;26:3;
28:19,21;32:11,16,21;33:9,
18;34:4,7,9,18,21,21;35:4,
11,12,13;36:2,9;44:16;49:4;
52:2,8,8,17;54:11;55:1,7;
59:15,17,20
**date (6)**
27:16,21,21;53:14;62:14;
65:9
**dated (3)**
40:3;73:19;76:4
**dates (1)**
75:13
**day (7)**
12:9,10,11,11;41:13,13;
67:17
**days (1)**
23:6
**DCIO (3)**
29:13;40:15,15
**December (1)**
8:1
**decide (1)**
48:18
**declassification (1)**
22:18
**deemed (2)**
19:13;63:11
**default (1)**
47:5
**defendant's (2)**
37:3,17
**Defense (10)**
10:2;13:17;16:7;17:3;
20:10;27:2;68:16;71:10;
72:19;73:13
**define (2)**
35:15,16
**definition (2)**
34:12;35:6
**Department (56)**
7:8,15;8:4,5,10,12;9:17;
10:2,9,13,16;19:14;20:10,
14;21:7,19;22:15;23:12,15,
16;24:6;29:14;30:8;32:12,
13;33:4,9,13;34:15;37:8,10,

12;44:3,21;45:6;46:3,7,9,
14;49:5,11;51:16,20;52:4,
15;54:2;55:15;57:4,5,9;
58:14;60:5;63:21;64:11;
77:3,9
**department's (2)**
45:10;57:17
**depend (1)**
41:16
**depending (2)**
10:13;23:7
**deploy (1)**
33:8
**deployed (1)**
44:16
**deputy (12)**
7:2,7;9:1;11:7;33:11,14;
38:8;40:11,14,21;41:4,9
**derogatory (1)**
42:19
**describe (1)**
74:1
**design (16)**
32:16;33:17;34:2,3,7,9,
21;35:2,4,13,18,19;36:12;
40:6;51:16;64:6
**designated (1)**
34:11
**designed (6)**
32:21;33:3;40:6;45:20;
46:1,2
**designing (1)**
35:11
**desire (2)**
5:16;72:20
**desk (4)**
13:7;15:20;18:2;73:11
**destination (1)**
30:16
**details (1)**
40:8
**determination (1)**
19:18
**determining (1)**
21:4
**develop (1)**
33:8
**developed (2)**
32:11,13
**different (2)**
30:3;40:11
**differentiate (2)**
22:16;24:2
**difficult (1)**
64:16
**digitally (1)**
64:21
**digits (3)**
63:8,8,9
**Diplomacy (47)**
8:18,21;15:7;17:13;19:3,
7;23:18,19;25:21;26:3;
28:19,21;32:16;33:18;34:7;

39:13;42:1;43:7,13;44:1,5,
13,20;45:11,19;46:15;
47:10,13;48:4,11;49:3,15;
50:21;51:5,17,21;52:3;53:3,
20;54:11;55:1,7;56:6;
57:10;59:15,17,19
**Diplomatic (2)**
30:21;31:1
**dire (5)**
13:13,17;16:8,16;29:1
**DIRECT (1)**
6:17
**directly (1)**
43:21
**director (2)**
7:20;30:6
**dis (1)**
58:4
**disclaimers (1)**
55:10
**discuss (1)**
66:16
**discussed (1)**
68:18
**DISCUSSION (1)**
31:18
**dissemination (1)**
57:14
**distributing (1)**
10:9
**distribution (14)**
10:14,17;21:2,7,13;
22:15;23:16;56:14;58:6,7,
10,17,21;59:4
**Djibouti (1)**
10:11
**document (3)**
18:19;55:11;75:14
**documents (7)**
16:21;42:4,6,6;45:5;
58:12;71:15
**DOD (4)**
9:15,16;10:15;11:14
**dollars (1)**
19:1
**done (6)**
23:7;25:10;29:16;35:18;
46:4;55:9
**doubtful (1)**
65:11
**down (5)**
28:10,13;40:13;48:8,20
**Downey (1)**
73:19
**download (4)**
28:6,15;29:9;64:21
**downloading (1)**
50:7
**draft (2)**
10:12;23:4
**drafted (2)**
10:10;22:2
**drafting (7)**

United States vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

19:12,15,17;20:13;21:16;
22:12;57:13
**drawer (1)**
62:5
**drop (1)**
28:13
**duly (1)**
6:15
**during (4)**
5:17;33:16;52:2;53:6

**E**

**earlier (2)**
65:21;67:19
**early (2)**
18:3;29:10
**echelons (1)**
17:7
**either (6)**
5:16;29:21;34:10;38:18;
62:11;71:15
**election (1)**
20:3
**electronic (3)**
20:18,20;58:6
**elements (2)**
10:15;34:10
**elevated (1)**
42:13
**eleven (1)**
68:4
**else (5)**
5:20;25:15;27:3;67:21;
74:16
**email (2)**
8:2;41:18
**embarrassing (1)**
58:13
**employed (1)**
62:2
**employees (4)**
41:3,5,6;52:4
**enable (1)**
34:10
**end (8)**
14:8,12;18:12,15;20:11;
24:17;45:7;53:7
**enforcement (1)**
31:1
**engine (1)**
25:14
**enter (2)**
71:17;72:20
**error (1)**
61:17
**especially (1)**
26:1
**essentially (5)**
39:8;41:1,3;42:9;48:10
**established (1)**
64:5
**even (1)**

39:11
**events (1)**
48:1
**everyone (1)**
27:3
**evidence (7)**
5:21;66:19;67:7;68:14,
14;75:6;76:11
**exactly (2)**
47:7;49:18
**EXAMINATION (7)**
6:17;16:19;17:20;29:3;
32:5,7;61:9
**example (5)**
10:11;19:19;22:17;25:9;
48:2
**examples (1)**
19:15
**exceeded (1)**
19:5
**excess (3)**
41:6;57:7,16
**exclusive (1)**
21:11
**excusal (1)**
66:12
**excused (1)**
66:15
**ExDis (3)**
58:7,16;59:17
**executive (3)**
22:20;58:7,17
**exercised (1)**
9:7
**exhibit (30)**
36:19;37:3,17;66:21;
67:10,12;69:9;70:2,11,13,
14,15,17;72:4,6;73:18;74:4;
75:2,5,7,18,21;76:5,11,12,
14;77:1,3,8,10
**exhibits (8)**
5:6;6:9;67:6;68:12,21;
70:3,20;73:4
**expected (20)**
5:12;6:7;67:1,3;69:21;
70:10,12,16,18;71:2;72:1,3,
8;73:17,18;74:18;75:1,10;
76:3;77:7
**expenses (1)**
42:2
**experience (3)**
26:14;47:12;48:12
**expert (8)**
13:13;16:5,9,11;26:6,18;
27:5;64:7
**expertise (1)**
13:14
**explain (2)**
40:5;71:10
**explained (1)**
72:13
**Explorer (2)**
28:8;48:9

**extended (1)**
53:9
**extra (1)**
12:1

**F**

**fact (4)**
16:5;30:5;43:15;46:2
**factual (1)**
22:11
**failure (1)**
41:18
**fallen (2)**
12:11;41:1
**familiar (4)**
8:17,20;59:2,5
**far (3)**
47:11;52:7;62:19
**feature (1)**
28:7
**February (2)**
7:1;53:9
**fed (1)**
20:17
**feed (2)**
23:17,19
**FEIN (26)**
5:9,19;6:2,5;66:18,21;
67:5,15,20;69:17;70:1;73:3,
9,15,21;74:3,17,20;75:5,11,
13;76:2,10,16,19;77:15
**fell (3)**
9:2;14:1;39:12
**few (2)**
57:1;70:9
**field (4)**
10:19;22:4;57:12;66:1
**fields (2)**
22:2;23:13
**fifteen (1)**
77:15
**fighter (1)**
66:6
**fighters (1)**
9:21
**file (2)**
28:8,10
**filing (3)**
62:4,5,18
**fill (2)**
22:2,4
**finalize (1)**
67:17
**finally (2)**
22:21;23:9
**find (4)**
25:4,6,9;34:10
**fine (2)**
26:14;52:14
**firewall (8)**
8:3;30:2,4,5,9,12;77:3,9
**Firewalls (1)**

30:3
**first (11)**
6:10,15;8:8,9,12;20:12;
22:4;24:17;29:20;39:19;
62:15
**firsthand (2)**
26:8,14
**fiscal (3)**
14:9,12;18:15
**five (2)**
62:5;75:9
**flaws (1)**
51:16
**focus (1)**
33:20
**focused (2)**
34:2;62:6
**folks (8)**
9:20;10:18;11:1,17;13:3,
5;22:10;25:2
**follows (2)**
6:16;18:17
**follow-up (1)**
66:9
**forego (1)**
6:8
**foreign (8)**
8:1,6,12;19:19;37:7,9,13;
62:3
**forms (1)**
17:7
**forward (1)**
5:6
**foundation (2)**
13:15,17
**FTE (1)**
12:17
**function (1)**
65:3
**functions (1)**
36:1
**funding (1)**
44:5
**further (1)**
61:6
**Fusion (2)**
9:15;10:4

**G**

**gained (1)**
11:14
**gave (3)**
31:7,8;46:3
**general (7)**
21:18;25:17;27:3;30:12;
41:12;51:4;59:4
**generally (1)**
41:15
**gentleman (1)**
31:4
**geographic (1)**
22:13

United States vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

**Gerald (4)**
70:16;72:6;76:4,8
**given (2)**
23:17;47:4
**gives (1)**
37:11
**giving (1)**
16:1
**goes (6)**
23:8,10;50:18;62:19,21;
63:1
**good (3)**
32:9,10;77:12
**Google (2)**
25:13;27:11
**government (14)**
5:5;6:3;12:12,15;13:14;
20:5;32:19;42:12;45:14;
47:8;67:5;68:9;73:14;76:10
**ground (2)**
9:20;10:19
**guard (1)**
45:8
**guess (3)**
43:1;61:3;66:2
**guidance (3)**
55:5,8;57:10
**guidelines (1)**
66:8

## H

**hack (1)**
30:7
**handled (1)**
45:13
**handling (1)**
43:21
**haphazard (1)**
10:18
**happen (1)**
56:9
**happened (1)**
40:12
**hard (2)**
38:17;39:18
**heard (2)**
9:12;17:3
**hearsay (3)**
16:12,17,19
**held (1)**
57:19
**help (3)**
13:7;15:20;18:2
**here's (5)**
14:10;17:11,16;20:1,3
**high (2)**
19:9;58:2
**higher (1)**
7:9
**highest (1)**
58:12
**highlight (1)**

39:13
**highly (1)**
65:11
**hired (1)**
33:8
**historic (1)**
62:8
**hits (1)**
30:15
**Honor (26)**
5:9,19;6:1,2,5;13:12;
17:2;25:19;26:11;28:16;
32:6;65:14;66:11;68:11,18;
69:2,14;70:21;71:3;72:10,
17;73:17,21;74:4,21;76:16
**Horizontal (2)**
9:15;10:4
**hot (1)**
41:16
**Hour (1)**
77:15
**human (1)**
61:17
**hundred (1)**
65:10
**Hurley (9)**
69:18;73:2,10,13;74:10,
12;75:8,19;76:13

## I

**ID (1)**
24:12
**idea (9)**
9:19;10:6,16,20;43:1;
50:18;56:19;60:2,17
**identification (17)**
37:4;67:6,10,12;68:13;
69:9;70:3,4,13,15;74:6;
75:6,18,21;76:6,11,15
**identified (2)**
55:21;63:10
**identifier (1)**
27:20
**identify (1)**
34:10
**identifying (1)**
55:20
**II (1)**
62:20
**images (2)**
68:21;69:1
**imagine (2)**
41:11;57:10
**impossible (1)**
64:17
**improve (1)**
35:19
**improving (1)**
35:17
**inaccessible (1)**
52:3
**inception (1)**

11:15
**include (3)**
29:18;65:6,7
**Incorporated (1)**
33:1
**indicate (1)**
17:8
**indicated (1)**
43:8
**individual (3)**
44:17;45:1;47:10
**individuals (6)**
17:7,10,15;26:4,16;41:11
**individual's (1)**
18:4
**infancy (1)**
11:4
**Inflated (1)**
42:18
**information (48)**
7:2;8:13;9:18,19;10:1,6,
21;11:19;12:15;16:12;17:6,
19:12;21:8,10,19;22:14,19;
23:5;31:2;32:15,21;33:14;
37:16;38:8,11;40:13,14,17,
17,19;42:1;44:4,6,13;45:12;
49:6;54:4;55:19,20;56:15;
57:18;58:1;59:6;63:12;
64:16;66:5,6,7
**inhibit (1)**
64:15
**initial (1)**
11:15
**initials (3)**
74:8,8;76:17
**inked (1)**
74:5
**inquiry (1)**
70:9
**inspector (1)**
51:4
**Instead (1)**
33:20
**insure (3)**
18:12;45:12;46:5
**intel (2)**
10:2;20:10
**Intelink (1)**
24:11
**intelligence (1)**
9:16
**Intellipedia (2)**
54:19;56:5
**intend (1)**
16:4
**intended (2)**
5:5;6:7
**intents (1)**
18:20
**interest (3)**
21:18;66:7;71:19
**internal (1)**
51:15

**Internet (5)**
25:13;27:12;28:8;41:19;
48:9
**into (21)**
20:14;23:19;24:9,13;
25:20;26:1;30:7;34:15;
54:10,14;55:15;56:1;59:19;
66:19;67:6;68:13;71:17;
72:20;75:1,6;76:11
**invoice (1)**
18:18
**involved (2)**
13:5,6
**IP (4)**
30:14,15,16,18
**Iraq (1)**
48:2
**IRM (5)**
11:7,21;13:20;29:15;43:8
**issue (3)**
48:1;52:6;69:21
**issues (4)**
20:4;39:14;44:1;55:16
**item (1)**
15:7
**items (1)**
16:14

## J

**James (1)**
73:19
**Janek (4)**
70:12;72:5;75:2,3
**January (1)**
75:14
**Jerry (1)**
31:6
**job (2)**
7:21;30:5
**jobs (1)**
41:14
**June (5)**
7:3;33:15;67:2;73:19;
76:4
**justified (1)**
43:6
**JWICS (3)**
19:9;21:20;31:21

## K

**keep (2)**
48:11,11
**key (1)**
34:11
**kind (10)**
10:19;13:6;39:4,8,12;
42:11,18,19;49:15;50:18
**knew (2)**
25:2,11
**knowing (2)**
57:15;72:18

**knowledge (7)**
26:8;32:1;33:7;52:10;
53:13,20;64:6
**knows (1)**
64:10

**L**

**large (1)**
14:18
**last (2)**
65:17;68:8
**Late (12)**
11:10;12:10,19;13:10,19;
14:13;18:3;29:10;43:8,15,
18;44:17
**latitude (1)**
51:9
**launched (2)**
11:2,3
**law (2)**
6:16;30:21
**lawyers (1)**
66:16
**least (1)**
57:16
**leave (2)**
53:9,16
**left (3)**
53:15;60:8;73:10
**legacy (3)**
7:17;10:8;45:15
**length (1)**
68:18
**letter (1)**
12:1
**level (9)**
11:18;13:4;14:14,17;
17:12;18:6;25:21;44:17;
45:1
**levels (5)**
7:9;14:4,7;15:4;18:12
**likely (1)**
16:11
**likewise (1)**
46:19
**limit (1)**
26:13
**limitation (1)**
46:20
**limited (3)**
46:13;47:3;50:10
**Lind (1)**
40:1
**line (6)**
15:4,7;16:14;22:20;
27:17;75:9
**link (1)**
28:5
**liquidated (1)**
18:19
**list (2)**
27:15,16

**listed (2)**
64:11;75:13
**litigating (1)**
5:7
**little (5)**
39:18;42:20;51:9;54:3,17
**located (3)**
19:7,8;69:18
**log (1)**
29:20
**logged (1)**
27:1
**logical (2)**
34:6,9
**logs (7)**
30:2,5,12;31:5,6;77:3,9
**long (3)**
62:16;66:7;77:13
**longer (2)**
52:16;53:4
**look (7)**
10:8;25:18;27:10;41:5;
55:17;63:15;69:7
**looked (4)**
11:16;21:17;26:8,20
**looking (4)**
17:13;30:14;41:20;63:9
**lot (3)**
25:2;39:3;57:3
**low (3)**
13:4;14:14;18:6
**lunch (2)**
77:12,19

**M**

**ma'am (48)**
5:10,18;16:5,15;17:1;
26:7,19;27:7;37:19;38:20;
51:8;52:18;61:8;65:20;
66:10,13,18,21;67:5,8,15,
20;68:2;69:17;70:1;71:6,9,
12,16,20;72:21;73:2,3,9,15;
74:3,10,12,14,17;75:8,19;
76:2,13,19,21;77:11,15
**maintain (1)**
14:21
**maintenance (3)**
9:3;12:3,10
**major (6)**
41:18;69:18;73:10,12;
75:11,13
**majority (1)**
56:18
**makes (1)**
59:9
**making (1)**
62:7
**manage (2)**
14:20;64:16
**management (6)**
11:13,19;12:16;32:15;
37:16;61:21

**manager (2)**
7:13;8:14
**Mander (1)**
68:20
**manner (2)**
49:10;50:7
**Manning (4)**
5:14;70:8;73:12;74:9
**manual (4)**
37:7,9,14;63:16
**manually (2)**
62:9;63:16
**many (6)**
20:9;41:3;56:20;60:3,4,
17
**marked (6)**
23:13;37:3;62:11;68:12;
70:1;76:5
**material (1)**
69:19
**May (7)**
6:2;10:14;67:9;70:6;
73:20;75:15,20
**maybe (1)**
32:20
**mean (13)**
14:16;21:15;28:7;29:19;
34:12;35:8;41:5;46:8;48:7;
56:14;57:21;59:11;62:21
**means (2)**
21:4,16
**meant (1)**
57:11
**mechanics (1)**
14:20
**mechanism (1)**
64:21
**mechanisms (2)**
44:18;45:2
**medical (3)**
21:11;53:9,15
**medically (1)**
21:8
**meeting (1)**
19:19
**members (1)**
62:3
**memory (1)**
43:17
**mentioned (2)**
63:3,21
**message (9)**
20:13;21:5;22:21;23:3,4,
8;24:5;27:19;60:6
**messages (9)**
19:13,16;20:16;22:7;
24:12;27:13,16;47:11;60:9
**messaging (10)**
7:14,14,16,17,21;8:3,10;
11:17;30:5;45:16
**met (1)**
27:13
**methoding (1)**

15:6
**Mexico (2)**
8:13,14
**microphone (1)**
77:6
**midway (1)**
75:12
**might (13)**
10:15;17:9;19:18;21:8;
22:16,16;23:7,8;38:11;43:2,
2;58:13;60:3
**military (2)**
28:1;45:7
**mind (4)**
35:20;36:4,5;57:1
**mini (3)**
13:7;15:20;18:2
**minimize (1)**
48:14
**minister (1)**
19:19
**minute (1)**
67:16
**minutes (1)**
77:15
**misperception (1)**
75:15
**Miss (3)**
6:8;66:19;67:1
**mission (1)**
23:2
**mobile (1)**
8:3
**modernization (1)**
7:14
**moment (5)**
6:3;31:17;39:12;65:4;
76:16
**money (12)**
9:16;11:14;14:11;17:8,
11,14,16,17;18:13,15,16,20
**moniker (1)**
10:5
**monitor (3)**
14:6;64:1,12
**monitored (1)**
73:11
**monitoring (2)**
18:11;49:12
**more (10)**
10:7,20,21;16:11;43:2;
54:4,17;58:3;59:9,14
**morning (4)**
32:9,10;51:12;69:15
**MORROW (6)**
68:11,19;69:2,5,10,14
**most (1)**
57:19
**move (4)**
48:14;67:5;75:5;76:10
**moved (3)**
77:2,6,9
**much (14)**

United States vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

13:9;15:10,11,20,21;
17:11,14,16,16;18:8;42:15,
17;55:12;59:9
**multiple (9)**
28:15;29:9;48:4,5,5,7,17;
57:12;65:1
**Mundy (5)**
31:6;70:16;72:7;76:4,8

## N

**name (4)**
9:15;10:3;47:21;65:8
**names (5)**
18:5;65:6,7,18,20
**narrative (1)**
43:6
**nation's (1)**
57:19
**nature (2)**
23:7;60:14
**nay (1)**
23:11
**NCD (47)**
11:2,3,6;12:3,10,19;
19:11;20:6,11,17;21:20;
24:9,13,14,18,20;25:3,7,8;
26:8,9,10,12,16,20;27:9;
29:10;30:15;31:20;32:2,11;
33:3,9;34:4,18;44:16;47:1,
6;55:9;61:12,18;64:2,3,6,
20;65:18;66:3
**near (1)**
77:6
**necessarily (2)**
55:9;57:20
**need (12)**
5:20;17:9,11,14,14,16,17;
38:11;43:2,3;67:21;74:16
**needed (1)**
9:19
**negative (1)**
42:20
**negotiated (1)**
11:17
**negotiation (2)**
11:12;19:20
**Net-Centric (48)**
8:17,20;9:7;15:7;17:13;
19:3,6;23:18,19;25:21;
26:3;28:19,21;32:16;33:17;
34:7;39:13;41:21;43:7,13;
44:1,5,12,20;45:10,19;
46:15;47:10,13;48:4,11;
49:3,15;50:21;51:5,17,21;
52:3;53:3,20;54:10;55:1,6;
56:6;57:10;59:15,16,19
**network (8)**
19:8,9;29:20,21;30:7;
31:20;52:5;58:2
**networks (1)**
19:6
**new (1)**

7:14
**next (2)**
5:15;74:8
**nine (1)**
8:14
**nirvana (1)**
42:18
**NoDis (3)**
58:6,9;59:18
**non-classified (1)**
32:2
**normal (1)**
24:6
**November (2)**
37:3,18
**number (14)**
16:1;25:11;27:20;48:13;
49:10;57:7;60:15,20,21;
61:1,2;63:8;65:9;74:5
**numbers (1)**
63:12

## O

**object (3)**
28:17;29:4;64:4
**objection (12)**
16:12;17:19;25:19;27:2;
28:16;51:8;67:8;68:15,17;
75:8,18;76:13
**obligated (3)**
18:14,15,16
**obligation (1)**
18:19
**obsolete (1)**
58:5
**obviously (3)**
33:20;39:11;75:14
**occasional (1)**
9:4
**occasionally (2)**
9:8;26:12
**occupied (1)**
17:6
**occur (1)**
11:9
**occurred (1)**
5:17
**October (5)**
30:20;53:9,11,15,19
**OFF (6)**
5:2;6:19;9:14;31:18;
40:12;55:21
**offer (1)**
68:13
**offers (3)**
66:18;74:21;76:2
**office (11)**
7:21;8:11;9:17;15:6;
30:6;33:21;40:17;42:15;
51:4;60:7;62:1
**officer (17)**
7:2,3;9:2;10:10;19:17;

20:14;21:11;22:8,12;23:10;
33:12,14;38:8;40:13,14,18,
19
**officers (10)**
19:13;21:9,16,17;22:9,9;
24:4;34:15;57:13;62:3
**officially (1)**
8:5
**old (2)**
62:17,21
**older (1)**
62:8
**once (9)**
13:14;25:8;29:10;46:14;
47:8;48:4;54:10;60:18;
71:21
**one (16)**
15:16;29:11;31:17;38:7;
48:6,13,15,21;58:7,8;60:21;
62:17;65:4;73:15;75:12;
76:16
**only (9)**
21:7;22:7;29:11;51:7,11;
55:5;57:4;58:21;71:18
**open (11)**
28:3;48:3,5,8,13,15,17;
50:15;67:4;75:4;76:9
**opened (3)**
47:14;48:4,12
**opening (1)**
50:10
**operation (2)**
9:11;34:18
**operational (1)**
11:4
**operations (3)**
8:16;13:21;33:12
**optimization (8)**
34:20;35:4,12,14,17,20;
36:1,3
**order (4)**
6:9;22:20;33:5;68:6
**organizational (3)**
37:11;40:2,9
**organizations (1)**
20:5
**original (3)**
9:14;10:4;70:5
**originally (3)**
11:14;61:18;74:5
**originating (1)**
27:21
**others (4)**
42:2,6;44:2,6
**out (19)**
9:5,21;14:18,18;22:5;
25:4;32:17,18;39:15;41:8;
47:21;49:5;55:5;57:11;
59:19,20;62:2;66:1,4
**outbound (1)**
23:3
**outlines (1)**
39:4

**outset (1)**
24:1
**outside (4)**
19:14;20:1;21:18;24:6
**over (13)**
5:14;11:8;19:1;20:17;
23:17;38:5,14;39:2;43:16,
20;45:17;54:8;66:12
**overall (4)**
9:10;33:21;39:6;41:5
**overestimate (1)**
17:9
**OVERGAARD (30)**
6:11,18;13:18;15:14,18,
19;16:4,13;17:1;18:1;26:7,
19;27:7,8;28:2;29:8;31:17,
19;32:4;51:8;52:18;61:8,
10;64:10,19;65:4,5,12;
66:10,13
**overrule (2)**
17:18;64:18
**Overruled (2)**
29:6;52:20
**oversaw (1)**
75:12
**overseas (4)**
20:14;21:17;23:2;62:2
**oversee (5)**
11:5;12:7;13:19;29:13,17
**overseeing (1)**
49:12
**oversight (4)**
7:6;12:12,15;41:12
**Overt (1)**
55:8
**own (2)**
27:5;47:21

## P

**padding (3)**
42:21;43:1,5
**page (7)**
38:3,4;39:2,4,17;74:3;
75:9
**pages (1)**
38:3
**paid (3)**
13:9;16:1;18:8
**panel (1)**
69:19
**paragraph (1)**
75:12
**part (6)**
20:12;24:17;51:3;54:18;
65:8;75:16
**participate (3)**
34:17;35:2;36:12
**particular (11)**
14:10;21:5;25:15;31:3;
37:13;41:14;48:1;49:10,10;
50:6;54:14
**particularly (1)**

United States vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

United States vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

31:18;68:7;69:17;74:19;
75:1;76:3;77:1
**redacted (2)**
70:4,20
**Redirect (2)**
61:7,9
**referenced (1)**
5:7
**reflect (2)**
68:7;69:17
**refuse (1)**
71:14
**regard (2)**
17:15;43:7
**regarding (2)**
42:1;44:4
**regards (8)**
36:17;41:21;49:3;51:21;
52:2;54:8;56:12;60:1
**regulations (1)**
37:10
**rejected (1)**
29:21
**related (1)**
63:11
**relative (1)**
57:3
**released (1)**
51:5
**relevance (4)**
28:17;29:5;51:8;52:19
**relied (7)**
45:6;46:3,15,19,21;64:1,
11
**relying (1)**
44:1
**remember (4)**
30:17,18,19;31:3
**remove (3)**
55:19;63:4,19
**removed (6)**
52:8,15;53:4,20;54:1;
63:18
**Repeat (4)**
15:17;35:9;44:19;77:5
**replace (1)**
7:17
**report (3)**
51:5,6,12
**reported (2)**
40:18;48:2
**reporter (1)**
38:17
**reporting (2)**
59:7,7
**request (4)**
16:15;43:6;44:7,10
**requested (1)**
30:21
**requests (8)**
14:2,3;16:6,14;42:8,10,
12;67:16
**require (1)**

64:7
**required (2)**
45:4;46:8
**requirements (7)**
11:15;33:21;34:14;36:7,
8;39:4;46:20
**research (1)**
9:17
**resource (7)**
11:13,19;12:16;27:19;
32:15;37:16;61:21
**respect (2)**
70:9;75:10
**responsibilities (2)**
7:5;39:6
**responsibility (7)**
9:3;11:8;12:5;43:16,20;
45:11,18
**responsible (10)**
8:2,14;9:9,10;12:3,9;
13:20;37:15;39:9;61:20
**rest (1)**
8:11
**restricted (1)**
50:14
**restriction (2)**
50:6;52:19
**restrictions (4)**
47:10;49:7;64:2,13
**restrictive (3)**
21:9;59:9,14
**result (1)**
26:9
**results (2)**
25:18;27:10
**retired (3)**
12:6;51:13;53:8
**Retrieval (1)**
7:16
**retrieve (1)**
73:8
**Retrieving (1)**
37:17
**return (1)**
73:13
**review (9)**
20:16;51:16;55:2,16,17,
21;56:2,7;69:19
**reviewed (4)**
15:5;16:13;54:10;65:18
**ribbon (1)**
48:9
**right (50)**
6:8;13:16;15:15;16:7;
17:18;32:20;35:3,11;36:8,
15;38:3;39:11,18;40:5,20;
41:10,10;44:9,20;46:13;
47:1;48:2;49:20;50:13;
54:11;57:8;65:12,13;66:14;
67:9,18;68:9,15,19;69:12,
16,20;70:6,8;71:14;73:4,7,
12;74:1,4,7,15;75:17;77:13,
17

**RM (1)**
11:21
**Rock (2)**
31:4,10
**Roger (3)**
59:2,4,20
**role (1)**
29:13
**Ron (2)**
31:4,10
**roughly (3)**
60:4,13,18
**ruling (1)**
68:14
**run (1)**
14:16
**running (3)**
9:11;11:17;60:6

**S**

**safe (2)**
31:10,14
**Same (9)**
12:14;15:1;27:11;29:11;
45:16;48:7;63:12;68:17;
72:13
**save (3)**
28:8,10,13
**saving (2)**
50:11,15
**saw (7)**
14:2,3,3;16:6;30:4;69:4,5
**saying (7)**
17:10,13,16;48:10;49:6;
50:17;58:13
**scanned (2)**
62:9,18
**scanning (1)**
61:19
**scope (1)**
34:4
**screen (2)**
22:2;68:21
**scutinizing (1)**
41:20
**search (14)**
25:4,6,7,12,14,15,16,17;
26:9;27:9,12,13;47:21;
63:17
**searches (3)**
26:13,17;63:7
**second (1)**
54:18
**secret (10)**
19:9,9,10;22:6,6,6;46:8;
47:4;57:21;58:2
**secretary (3)**
11:18;23:2;58:18
**secretary's (2)**
8:11;21:12
**secrets (1)**
57:19

**section (1)**
37:13
**secured (1)**
31:12
**security (5)**
30:21;31:1;40:18;63:8;
65:8
**seeing (1)**
17:6
**select (1)**
38:9
**semantics (1)**
32:20
**senior (1)**
8:1
**sense (1)**
42:19
**sensitivity (1)**
58:12
**sent (6)**
10:12;23:14;42:4;57:12;
61:20;62:1
**sentence (1)**
75:11
**September (2)**
8:6;51:4
**series (1)**
22:9
**served (1)**
33:11
**servers (4)**
52:16,17;53:4,21
**service (5)**
8:2,6,13;40:16;62:3
**session (1)**
6:6
**sets (1)**
74:7
**several (1)**
17:7
**share (1)**
56:15
**shared (3)**
24:6;58:15;66:6
**sharing (4)**
10:1;19:14;44:13;64:15
**shoot (1)**
42:16
**show (5)**
16:17,21;30:13;38:2;
39:17
**showed (2)**
51:7,11
**showing (1)**
37:2
**shown (2)**
39:20;50:3
**shows (1)**
40:3
**side (4)**
5:16;13:21;48:14;56:7
**sides (1)**
72:2

United States vs.  
PFC Bradley E. Manning

UNOFFICIAL DRAFT  
6/26/13 Morning Session

- Vol. 10  
June 26, 2013

**sign (1)**
  71:1
**signed (1)**
  23:1
**signing (1)**
  71:4
**similar (2)**
  7:4;25:13
**simply (3)**
  7:2;28:5;46:13
**SIPDIS (22)**
  21:1,13,21;23:13,15,21;
  24:15;54:4,9,15;55:6,15;
  56:12;57:9,11,14;59:13;
  60:4,18;61:12,13;62:11
**SIPRNET (27)**
  9:18;19:8;20:8,9;21:1,13,
  20;24:19;25:6;31:21;44:16,
  21,21;46:4,9,15,17,20;47:3,
  5,9;49:5;56:1,13,16,20;57:6
**sketches (1)**
  19:21
**sky (1)**
  42:16
**SMART (1)**
  7:15
**smooth (1)**
  9:10
**Social (2)**
  63:8;65:8
**somebody (2)**
  46:4;57:8
**someone (5)**
  9:4;25:8,17;62:17;73:7
**someone's (1)**
  35:11
**sometimes (1)**
  17:9
**somewhat (1)**
  42:13
**somewhere (1)**
  18:10
**Sorry (6)**
  15:14,18;27:19;36:20;
  38:19;52:11
**sort (7)**
  42:2;49:5,7;51:15,19;
  55:1,4
**speak (1)**
  55:12
**Special (3)**
  68:20;77:1,7
**specialist (1)**
  8:6
**specific (2)**
  25:9;30:18
**specifications (5)**
  33:4,17;34:3,13,14
**specifics (1)**
  52:1
**specifying (1)**
  57:13
**spend (6)**

14:4,6,10,11;15:4;18:11
**spent (4)**
  18:13,21;19:2;30:6
**sphere (1)**
  10:19
**spillage (2)**
  55:2,16
**staff (2)**
  30:4;41:6
**stances (1)**
  20:3
**stand (3)**
  58:9,16;72:15
**standard (1)**
  49:19
**standing (2)**
  21:1,2
**standpoint (1)**
  18:20
**start (4)**
  8:4;11:5;26:2;38:4
**started (7)**
  6:21;7:21;8:5;9:14,21;
  43:8;62:15
**State (57)**
  7:8,15,16;9:17;10:9,13,
  16;19:14;20:15;21:6,19;
  22:15;23:2,12,15,16;24:6;
  29:14;30:8;32:12,14;33:5,9,
  13;34:15;37:8,11,12;44:3;
  45:1,6,10;46:3,7,9,14;49:5,
  11,19;51:16,20;52:3;54:2;
  55:15;57:4,5,9,16;58:4,14,
  18,21;60:5;64:1,11;77:3,9
**stated (1)**
  26:19
**StateDis (2)**
  58:5,21
**statement (2)**
  16:20;17:15
**statements (1)**
  17:10
**States (13)**
  6:5,7,11;20:1;66:18;
  67:16;74:21;76:2,21;77:2,6,
  8,11
**State's (1)**
  52:16
**stay (1)**
  10:16
**steps (1)**
  51:19
**still (6)**
  12:3;13:6;16:8;32:18;
  59:1;72:20
**stipulate (1)**
  71:14
**stipulation (23)**
  6:7;66:19;67:1,3;70:11,
  16,18;71:18;72:1,3,8,11,12;
  73:17,18;74:18;75:1,3,10;
  76:3,8;77:2,7
**stipulations (8)**

5:12;67:17;69:21;70:10;
  71:1,8,11;72:20
**stored (1)**
  45:13
**string (1)**
  25:15
**strings (2)**
  63:7,10
**structure (2)**
  37:11;40:3
**subject (3)**
  22:21;27:17;68:14
**subjects (1)**
  22:13
**Sure (9)**
  22:4;35:8;44:19;48:10;
  53:2;55:16;59:18,18,21
**surprised (1)**
  49:17
**sworn (1)**
  6:15
**system (19)**
  7:14,15;8:10;9:3,5,6,11;
  12:10;13:3;14:16,18,21;
  32:19;41:18;42:16,18;
  55:17;61:21;62:21
**systems (11)**
  7:17,21;8:3,3,14;14:20;
  15:6;30:6;39:16;45:16;60:7

## T

**table (1)**
  73:13
**tabs (1)**
  48:17
**tag (2)**
  22:17,17
**tags (1)**
  22:13
**tailor (1)**
  27:5
**talk (3)**
  38:10;44:12;64:7
**talked (5)**
  15:21;47:12,13;54:3;
  61:11
**talking (3)**
  18:3;26:8;60:3
**Tasha (3)**
  6:8;67:1,3
**task (1)**
  33:5
**teams (2)**
  61:20;62:1
**technical (12)**
  18:6;25:20;34:18,20;
  35:3,12,14,19,21;36:3;64:2,
  12
**technician (1)**
  14:15
**technicians (2)**
  14:14;15:11

**technology (5)**
  7:3;9:2;33:1,12;63:1
**telegram (2)**
  10:10,12
**telegrams (5)**
  57:12;62:14,16,17,20
**Telex (1)**
  63:1
**temporarily (1)**
  66:14
**Temporary (2)**
  66:12,13
**ten (2)**
  48:13;68:3
**term (1)**
  56:13
**terms (1)**
  22:13
**Terra (3)**
  59:5,18,21
**Terrace (1)**
  59:6
**terraced (2)**
  59:6,7
**testified (6)**
  6:16;26:12;65:21;68:20;
  69:3,4
**testify (1)**
  28:18
**testifying (3)**
  72:5,7,14
**testimony (26)**
  5:12;6:8;25:20;26:17;
  49:20;55:14;66:16;67:1,3;
  69:21;70:10,12,16,18;71:2;
  72:1,3,8,12;73:17,19;74:19;
  75:1,10;76:4;77:7
**Thian (3)**
  6:8;67:2,4
**Thian's (1)**
  66:19
**thoroughly (1)**
  71:5
**though (2)**
  39:11;55:14
**thought (1)**
  43:15
**thousand (1)**
  19:1
**thousands (1)**
  62:2
**three (4)**
  63:8,9;74:3,7
**throughput (1)**
  35:18
**timeframe (6)**
  11:4;30:20;33:11;40:10;
  60:8;62:20
**times (2)**
  57:12;70:9
**tip (1)**
  10:19
**today (3)**

United States vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

25:13;40:9;48:8
**together (1)**
7:9
**told (2)**
72:18,19
**Tomorrow (2)**
69:14,14
**took (2)**
11:8;43:16
**Toolset (1)**
7:16
**TOOMAN (1)**
68:17
**top (6)**
19:9,9;22:6,6;57:21;74:4
**tracked (1)**
60:7
**training (1)**
13:5
**transcript (1)**
69:7
**transmitted (1)**
23:11
**treaty (1)**
19:20
**trial (2)**
66:15,17
**trick (1)**
47:20
**true (3)**
8:12;43:5;45:15
**truth (1)**
72:12
**try (1)**
29:20
**trying (1)**
28:18
**turn (1)**
63:2
**tweets (1)**
68:11
**Twitter (1)**
69:1
**two (10)**
5:13;7:7,18;38:2;40:15;
48:15,15;63:8;68:11;69:20
**type (17)**
13:3;18:6;19:20,20;20:2;
41:16,17;45:16;47:2;54:18,
19,20;56:14;57:18;59:6;
61:17;63:1
**types (7)**
14:19;19:11;22:7;34:13;
36:6;46:11;63:9
**typical (1)**
47:20
**typically (3)**
7:9;18:9;58:18

**U**

**ultimately (1)**
23:1

**unclassified (1)**
22:5
**under (10)**
9:2,15;10:5;11:20;12:5;
14:1,4;15:6;29:15;39:12
**Underneath (2)**
22:12;41:1
**understood (2)**
75:11,13
**unfortunately (1)**
42:10
**unique (1)**
27:20
**United (13)**
6:5,7,11;20:1;66:18;
67:15;74:21;76:2,21;77:2,6,
8,11
**unless (1)**
21:10
**unusual (2)**
42:14,20
**up (13)**
11:15;17:12;28:10;31:11;
40:18;42:10;48:6,12,13,13,
15;53:13,19
**upload (3)**
24:12;54:14;55:11
**uploaded (5)**
24:9;54:21;55:4,6;62:9
**uploading (3)**
54:9;56:5;61:16
**upon (8)**
34:11;42:2;44:2,5;45:6;
46:3,15,21
**use (8)**
9:6;20:6;26:21;27:6;
47:5;59:1;64:1,20
**used (8)**
14:11;22:14;26:12,20,21;
27:4;28:1;60:15
**user (16)**
9:4,6;13:7;24:10,12,18;
34:13,14;36:1,6,9;44:17;
45:1;49:9;50:14;64:21
**users (7)**
34:10;45:7;46:7;54:13,
19;57:4,5
**uses (1)**
28:20
**using (1)**
47:13

**V**

**various (6)**
19:20;20:4;22:10;37:12;
39:4;40:8
**verbatim (1)**
49:21
**verify (1)**
76:19
**version (2)**
70:14,18

**versions (2)**
70:5,20
**vetting (2)**
46:4,10
**VIDEO (4)**
5:2,3;6:19,20
**view (3)**
22:10;45:5,10
**viewing (1)**
47:11
**violate (1)**
66:7
**voir (5)**
13:13,17;16:8,16;29:1

**W**

**walk (1)**
22:1
**wants (1)**
42:15
**war (3)**
9:21;62:20;66:6
**warning (4)**
49:16,18;50:1,3
**Washington (1)**
23:3
**watch (1)**
14:9
**way (10)**
25:4,16;31:15;42:11,12;
46:2;48:7;50:10;61:21;
72:13
**ways (2)**
24:8;62:16
**wealth (1)**
9:19
**web-based (1)**
47:2
**website (1)**
24:20
**websites (1)**
52:16
**weed (1)**
41:17
**weeds (1)**
41:13
**weeks (1)**
23:6
**weren't (1)**
43:21
**whatnot (2)**
46:5;50:20
**what's (5)**
14:11;35:8;37:2;48:2;
70:1
**Whereupon (1)**
6:13
**wherever (1)**
10:11
**whole (1)**
29:19
**who's (1)**

56:5
**Wilbur (2)**
77:1,8
**window (1)**
49:1
**Windows (2)**
48:5,7
**Wisecarver (8)**
6:12,14;17:5;32:9;37:2;
38:2;61:5,11
**within (4)**
10:16;22:15;48:11;50:5
**without (4)**
14:16,19;16:1;59:13
**witness (22)**
6:10,15;15:17;16:5;26:6,
12,19;27:4,19;28:18,20;
35:8;37:18;38:19;51:11;
52:21;64:5,7,15;66:5;
72:15;76:19
**witnesses (2)**
5:13;72:9
**word (1)**
25:15
**work (2)**
7:9;22:1
**worked (2)**
28:19;30:4
**working (9)**
8:10;12:18,21;18:2;
33:16;41:4,9,12,18
**works (2)**
25:13;42:12
**world (2)**
46:9;62:20

**Y**

**yay (1)**
23:11
**year (8)**
14:9,12;18:15;60:4,9,10,
18;69:5
**years (1)**
7:18

**Z**

**zoom (1)**
39:19

**1**

**1 (1)**
73:19
**10 (1)**
53:18
**1315 (2)**
77:16,18
**149 (1)**
73:18
**150 (1)**
67:1

United States  vs.
PFC Bradley E. Manning

UNOFFICIAL DRAFT
6/26/13 Morning Session

- Vol. 10
June 26, 2013

**1500 (2)**
  41:7,8
**151 (2)**
  67:6,10
**152 (1)**
  74:5
**16 (1)**
  67:2
**162 (9)**
  70:2,11,12,13,20;72:4;
  73:5,5;75:2
**163 (6)**
  70:3,20;72:6;73:5,5;76:5
**163A (1)**
  70:15
**163B (1)**
  70:17
**164 (1)**
  74:6
**1987 (1)**
  8:7

---

**2**

**20 (2)**
  53:17;67:16
**20,000 (2)**
  57:5,17
**2000 (1)**
  8:1
**2003 (1)**
  10:5
**2004 (2)**
  11:4;60:8
**2005 (1)**
  60:8
**2006 (4)**
  7:3;33:11,15;44:17
**2008 (2)**
  7:1;40:3
**2009 (16)**
  11:7,10;12:10,19;13:6,10,
  19;14:13;18:3;20:12;24:17;
  29:10;40:10;43:8,16,18
**2010 (17)**
  12:2,13;14:7;15:1;18:3,
  12;19:4;20:12;24:17;29:10;
  30:21;40:10;43:14;53:11,
  19;75:14,15
**2011 (2)**
  53:8,10
**2012 (1)**
  51:4
**2013 (3)**
  67:2;73:19;76:4
**26 (1)**
  76:4

---

**3**

**30 (2)**
  75:13,14
**300,000 (3)**

---

60:9,10;61:3
**31 (4)**
  5:6;68:12,21;69:9
**32 (4)**
  5:6;68:12,21;69:9
**33 (3)**
  38:3,4,5
**34 (4)**
  38:5,14;39:2,4

---

**4**

**40 (1)**
  12:16

---

**6**

**60 (1)**
  12:16
**65,000 (1)**
  18:9
**68 (5)**
  76:11,12,14;77:4,10

---

**7**

**70,000 (1)**
  18:10
**701 (1)**
  26:1
**702 (1)**
  26:1
**72 (2)**
  77:2,8
**75 (2)**
  60:14,15
**78 (1)**
  39:17

---

**8**

**802 (2)**
  5:4,17

---

**9**

**9/11 (1)**
  9:14
**97 (4)**
  75:6,7,18,21
**98 (2)**
  67:6,12